

**MOSS v. BALLARD**  
**CASE NO. 2:09cv01406**

**RESPONDENT'S EXHIBIT 20**  
**(CONTINUATION, pp. 301 - 450)**

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1 about the time that schools were not integrated; right?

2 JUROR WAYNE: I don't know. I went to school in  
3 Chicago, Illinois. So, the schools were already  
4 integrated.

5 THE COURT: Where have you worked in your life?

6 JUROR WAYNE: I was an accountant here in  
7 Charleston for about twenty-seven years. I worked in the  
8 National Bank of Commerce building.

9 THE COURT: In your work, did you come into  
10 contact with black people?

11 JUROR WAYNE: Very little.

12 THE COURT: Who did you work for?

13 JUROR WAYNE: I worked for H&R Block one year,  
14 and that was mostly when I did come in contact with them.

15 THE COURT: I just asked for an extension  
16 yesterday.

17 JUROR WAYNE: You should have had it done.

18 THE COURT: I found out that I owe a lot more  
19 money than I could pay.

20 Have you ever been a member, or are you presently  
21 a member, of any club or organization or social group  
22 that excludes persons from membership because of their  
23 race?

24 JUROR WAYNE: No, sir.

1 THE COURT: Have you any family members who have  
2 ever been convicted of a crime, other than traffic  
3 violations and such?

4 JUROR WAYNE: No, sir, not that I know of.

5 THE COURT: Now, in this case, the Prosecuting  
6 Attorney, at the close of all of the evidence, is going  
7 to ask the trial jurors in this case to return a verdict  
8 of guilty of first degree murder. They are also going  
9 to ask this jury not to recommend mercy.

10 If the jury brings back one or more verdicts of  
11 guilty of first degree murder without mercy, that means  
12 that Mr. Moss will go to the penitentiary for the rest  
13 of his natural life without any hope of parole at all.

14 If the evidence warrants it, could you return  
15 such a verdict?

16 JUROR WAYNE: Yes, sir, I could.

17 THE COURT: Now, obviously, there are two sides  
18 to that process. Right now, Mr. Moss is, in the eyes of  
19 the law, innocent, because the law presumes him to be not  
20 guilty and he has pleaded not guilty.

21 If the Prosecutors put on their case and it shows  
22 that there were some horrible things done, but  
23 nevertheless they failed to prove that Mr. Moss is the  
24 person who did it, failed to prove it beyond a reasonable

1       doubt, would you have any difficulty at all in returning  
2       a not guilty verdict?

3               JUROR WAYNE: No, sir.

4               THE COURT: Mr. Bickley?

5               MR. BICKLEY: Mr. Wayne, you do understand, sir,  
6       that Mr. Moss, as he sits here, enjoys the presumption  
7       of innocence throughout the entire trial?

8               JUROR WAYNE: Right.

9               MR. BICKLEY: That's until the jury goes into the  
10      Jury Room to deliberate.

11              JUROR WAYNE: Right.

12              MR. BICKLEY: And do you understand that Mr. Moss  
13      has absolutely no responsibility to prove himself  
14      innocent; but the State has the burden of proving him  
15      guilty beyond a reasonable doubt?

16              JUROR WAYNE: Yes, sir.

17              MR. BICKLEY: Do you understand that?

18              JUROR WAYNE: Yes, sir.

19              MR. BICKLEY: As a matter of fact, the mere fact  
20      that he may or may not take the stand in his own defense  
21      is no inference of guilt?

22              JUROR WAYNE: Right.

23              MR. BICKLEY: Do you further understand, sir,  
24      that you may, at the end of the trial, when you are

1 cogitating all of the evidence in your mind, come to the  
2 conclusion that there is a strong suspicion that he might  
3 be guilty; that if you come to that conclusion that's a  
4 strong suspicion, that's not enough, that you would have  
5 to find him not guilty.

6 Are you aware of that?

7 JUROR WAYNE: Yes, sir.

8 MR. BICKLEY: Now, let me ask you -- Mr. Wayne,  
9 let's say, at the end of the trial, you're searching in  
10 your heart of hearts, and you have arrived at the  
11 conclusion that there may be a suspicion, not a mere but  
12 maybe a strong suspicion that he might be guilty, but the  
13 State has not proven it's case beyond a reasonable doubt.  
14 And you go into the Jury Room to deliberate and discuss  
15 the case, but you are convinced in your heart of hearts  
16 -- and there was a strong suspicion that he was guilty,  
17 and the other eleven are convinced that he is guilty --  
18 could you, after deliberating and listening to their  
19 rationale, if you still are convinced that they did not  
20 prove their case, could you stand firm in your  
21 convictions?

22 JUROR WAYNE: Yes, sir, I could.

23 MR. BICKLEY: Thank you very much, sir.

24 MR. REVERCOMB: Mr. Wayne, taking the situation

1 in the Jury Room, deliberating -- and eleven of your  
2 fellow jurors are convinced beyond a reasonable doubt  
3 that the defendant is guilty, and you are not, at that  
4 point, would you be able to listen to their reasons and  
5 discuss it in a fair way?

6 JUROR WAYNE: Yes, sir.

7 MR. REVERCOMB: And try to come to a verdict, if  
8 you could?

9 JUROR WAYNE: Yes, sir.

10 MR. REVERCOMB: Also, he talks about suspicion  
11 and all of that. And he is presumed to be innocent, but  
12 you must understand that the State's burden in every case  
13 is beyond a reasonable doubt. That's our burden of  
14 proof. We have to prove that the defendant is guilty  
15 beyond a reasonable doubt. We don't have to prove that  
16 he is guilty beyond all doubt or beyond all possible  
17 doubt.

18 Would you hold the State to a higher burden than  
19 beyond a reasonable doubt?

20 JUROR WAYNE: No, sir.

21 MR. REVERCOMB: Okay.

22 MR. BICKLEY: One other thought. There may be  
23 some testimony from some witnesses who will state that  
24 they are born again christians. Would you give more

1 credibility to their statement than anyone else?

2 JUROR WAYNE: No, sir.

3 MR. BICKLEY: What about if a uniformed officer  
4 was to testify, or out of uniform? Would you give a  
5 Police Officer more credibility than you would any other  
6 person?

7 JUROR WAYNE: Probably, yes, sir.

8 MR. BICKLEY: You think that he would tell the  
9 truth more often than not?

10 JUROR WAYNE: Probably, yes.

11 MR. BICKLEY: Thank you.

12 MR. REVERCOMB: Could you follow the instructions  
13 of the law that the Judge told you -- that you are to  
14 weigh each witnesses testimony as to the demeanor and how  
15 they came across equally?

16 JUROR WAYNE: Yes, sir.

17 MR. REVERCOMB: And you could follow those  
18 instructions if the Judge were to give them?

19 JUROR WAYNE: Yes, sir.

20 MR. REVERCOMB: I have nothing further.

21 MR. BICKLEY: I have no further questions.

22 THE COURT: Thank you, Mr. Wayne. Would you like  
23 to go back and join the rest of the jury? You will have  
24 plenty of time to have a cup of coffee, if you'd like.

1 JUROR WAYNE: Good luck with your taxes.

2 THE COURT: Thanks.

3

4 WHEREUPON, Kenna Wayne returned to the Jury  
5 Lounge.

6

7 MR. REVERCOMB: He testified, your Honor, that he  
8 could follow instructions of law.

9 MR. BICKLEY: We strike for cause. We've got  
10 more Police Officers testifying than anybody else, your  
11 Honor.

12 THE COURT: I'm going to excuse him. I  
13 understand -- if he hadn't been so cotton-pickin' sure  
14 about it, I may have thought about it. But he didn't  
15 have any trouble at all answering that question --  
16 without a millisecond delay. Otherwise, I thought he was  
17 going to be a pretty good juror.

18

19 WHEREUPON, Kenna Wayne was excused from the jury  
20 panel for this case.

21

22 WHEREUPON, Terrie Janney was brought to the Jury  
23 Room for individual voir dire.

24



1 THE COURT: Hello, Ms. Janney. You want to come  
2 on back.

3 JUROR JANNEY: Hi.

4 THE COURT: How are you this morning?

5 JUROR JANNEY: Fine.

6 THE COURT: Let me ask you, have you heard  
7 anything about this case?

8 JUROR JANNEY: No.

9 THE COURT: Did you know beforehand, before  
10 yesterday, that this trial was starting?

11 JUROR JANNEY: No.

12 THE COURT: Have any of the other jurors talked  
13 to you about this trial in any way, other than just from  
14 having to wait around?

15 JUROR JANNEY: No, sir.

16 THE COURT: Where did you attend school?

17 JUROR JANNEY: High school?

18 THE COURT: Yes.

19 JUROR JANNEY: George Washington.

20 THE COURT: When did you graduate from George  
21 Washington?

22 JUROR JANNEY: In '76.

23 THE COURT: Are you employed now?

24 JUROR JANNEY: Yes.

1 THE COURT: Where?

2 JUROR JANNEY: Stone & Thomas.

3 THE COURT: Do you know my wife?

4 JUROR JANNEY: What is your wife's name?

5 THE COURT: Susan MacQueen.

6 JUROR JANNEY: No.

7 THE COURT: In your work, I take it then, you  
8 work with black people?

9 JUROR JANNEY: Yes, I do.

10 THE COURT: Do you belong to any clubs or  
11 organizations that exclude blacks or other persons  
12 because of their race?

13 JUROR JANNEY: No, sir.

14 THE COURT: Do you have any members of your  
15 immediate family who have ever been convicted of a crime?

16 JUROR JANNEY: No, sir.

17 THE COURT: Now, in this case the Prosecuting  
18 Attorney's office, at the close of all of the evidence,  
19 they are going to ask the jurors, each member of the jury  
20 to return a verdict finding the defendant guilty of first  
21 degree murder without mercy.

22 Now, what that would mean if that verdict came  
23 back is that Mr. Moss would go to the penitentiary. He  
24 would spend the rest of his natural life there without

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1 ever having the opportunity for parole or release. And  
2 if the evidence warrants it, could you return such a  
3 verdict?

4 JUROR JANNEY: Yes, sir.

5 THE COURT: Now, obviously, that is a story with  
6 two sides. Mr. Moss has pleaded not guilty, and in the  
7 eyes of the law, he is, in fact, not guilty; not until  
8 the Prosecuting Attorney has proven him guilty beyond a  
9 reasonable doubt.

10 If they put on evidence of some pretty nasty  
11 events, unpleasant things, but you don't believe that  
12 they have proved the defendant guilty beyond a reasonable  
13 doubt, do you believe that you could find a verdict of  
14 not guilty?

15 JUROR JANNEY: Yes, sir.

16 THE COURT: Mr. Bickley?

17 MR. BICKLEY: Ms. Janney, did I pronounce that  
18 right?

19 JUROR JANNEY: Yes.

20 MR. BICKLEY: If a born again christian were to  
21 testify, would you give them more credibility than the  
22 testimony of anybody else?

23 JUROR JANNEY: No, sir.

24 MR. BICKLEY: If a uniformed Police Officer were

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1 to testify, would you give him more credibility than  
2 anybody else?

3 JUROR JANNEY: No, sir.

4 MR. BICKLEY: Ms. Janney, you recognize that the  
5 presumption of innocence goes with Mr. Moss throughout  
6 the entire trial; that is, up until the jury walks into  
7 the Jury Deliberation Room to deliberate?

8 JUROR JANNEY: Yes, sir.

9 MR. BICKLEY: Do you further understand that Mr.  
10 Moss does not have to do anything at all to prove his  
11 innocence, but that the State must prove his guilt beyond  
12 a reasonable doubt?

13 JUROR JANNEY: Yes, sir.

14 MR. BICKLEY: Now, do you further understand that  
15 after all of the evidence is in, and you have searched  
16 your heart of hearts, and you walk into the Jury Room you  
17 may believe that -- you may have even come to the  
18 conclusion that there is a suspicion that he might be  
19 guilty -- but that is not enough.

20 And if you felt that way, you could vote not  
21 guilty?

22 JUROR JANNEY: Yes.

23 MR. BICKLEY: Do you understand that?

24 JUROR JANNEY: Yes, sir.

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1 MR. BICKLEY: Let's take that scenario just one  
2 step further. This is the hard part.

3 You are convinced in your mind, and you have  
4 listened to everyone else in the Jury Room, and in your  
5 heart of hearts you are convinced -- not beyond a  
6 reasonable doubt -- but you are convinced that the State  
7 has not proved its case beyond a reasonable doubt, but you  
8 merely might be suspicious. And if the other eleven  
9 jurors are saying that he is guilty, could you stand  
10 against them?

11 JUROR JANNEY: Yes, I could.

12 MS. LUSK: If you were in that situation that Mr.  
13 Bickley has described and there were eleven people on the  
14 jury who thought that the defendant was guilty, do you  
15 think that you would listen to them and listen to their  
16 views and their reasons that they thought that he was  
17 guilty?

18 JUROR JANNEY: Yes, ma'am.

19 MS. LUSK: Would you take their view into  
20 consideration and listen to them and try to reach a  
21 verdict?

22 JUROR JANNEY: Yes, ma'am.

23 MS. LUSK: Now, Mr. Bickley asked you a couple of  
24 questions about Police Officers and born again

1 christians. Is there any reason in your mind that you  
2 would believe those people less than any other people?

3 Juror JANNEY: No.

4 MS. LUSK: Would you have any reason not to  
5 believe a Police Officer?

6 JUROR JANNEY: No.

7 MS. LUSK: He also indicated to you that the  
8 State's burden in this case, as it is in every criminal  
9 case, is to prove this defendant guilty beyond a  
10 reasonable doubt. It is not our burden to prove him  
11 guilty beyond all doubt or beyond any doubt. And you  
12 think you could abide by that law and not hold the State  
13 to a stricter burden than the law requires?

14 JUROR JANNEY: Yes.

15 MS. LUSK: Thank you.

16 MR. BICKLEY: No further questions.

17 THE COURT: Good. You can go back and join the  
18 other jurors and we'll get back to you in just a couple  
19 of minutes.

20

21 WHEREUPON, Terrie Janney returned to the Jury  
22 Lounge.

23

24 MR. REVERCOMB: Judge, I know it's a little late

1 to bring this up, but I have a problem with the way  
2 Nelson is arguing some of this. He is arguing the law  
3 and they haven't been instructed on the law yet. And  
4 that's not really probative. He's talking about  
5 suspicion and strong suspicion and that's not enough.  
6 You're going to instruct them on all of that at the end  
7 of the case. I'm just not sure it's proper for him to  
8 do that -- even though it's a little late for me to be  
9 objecting to it.

10 THE COURT: It sure is. But it's better than  
11 having a case with a hung jury. We've only got a couple  
12 of bodies left.

13 I'm going to put Ms. Janney on as No. 10. She  
14 looked very uncomfortable. I wonder if she's got  
15 something going on other than the fact that she's new to  
16 this.

17 MR. REVERCOMB: To be perfectly honest, I know  
18 her sister. I grew up with her sister, but I don't know  
19 her. I spoke to her one time, I think, in my whole life.  
20 I know her sister, but I don't know her. Her sister and  
21 her are seven years apart.

22

23 WHEREUPON, John Williamson was brought to the  
24 Jury Room for individual voir dire.

1 THE COURT: Hi, John. Come on in.

2 JUROR WILLIAMSON: Hi.

3 THE COURT: We're going to make this as quick as  
4 we can.

5 Tell me first -- you put your hand up when I  
6 asked if you had heard anything about this case on TV or  
7 anything. What did you hear?

8 JUROR WILLIAMSON: I remembered that, in the St.  
9 Albans area I think, that -- and that Mr. Moss had been  
10 convicted. I think the Supreme Court overturned the case  
11 due to some irregularities in the case, and it was  
12 brought back for retrial.

13 THE COURT: Do you remember that the husband was  
14 originally charged?

15 JUROR WILLIAMSON: Yes.

16 THE COURT: There was some testimony there, or a  
17 confession, I think. It seems like if I remember, it was  
18 a father-in-law or somebody else who gave a confession  
19 or some sort of thing.

20 THE COURT: Now, having that recalled, would that  
21 cause you any difficulty at all in being a fair and  
22 impartial juror in this case do you think?

23 JUROR WILLIAMSON: Well, with all due fairness to  
24 Mr. Moss, I'd have to say that I would try to be fair,



1 but there is some doubt in the back of my mind.

2 THE COURT: Based on what you know already?

3 JUROR WILLIAMSON: Yes.

4 THE COURT: I think you probably know yourself  
5 that it's very important that this case be considered on  
6 its own merits.

7 Do you think that you would have any trouble  
8 doing that?

9 JUROR WILLIAMSON: You know, it's a difficult  
10 situation and an awesome responsibility. I think I might  
11 have some problems.

12 THE COURT: Okay. Let me just ask a couple of  
13 other quick questions.

14 Did you know that this case was starting before  
15 yesterday?

16 JUROR WILLIAMSON: Before I came in yesterday?

17 THE COURT: Yes.

18 JUROR WILLIAMSON: No.

19 THE COURT: Have you heard any of the other  
20 jurors talk about this case?

21 JUROR WILLIAMSON: No, I have not.

22 THE COURT: When you went to high school, was it  
23 an integrated school?

24 JUROR WILLIAMSON: Yes, I'm sure.

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1 THE COURT: When did that happen -- do you know?

2 JUROR WILLIAMSON: Yes, in 1956. I was a  
3 sophomore at Huntington High School.

4 THE COURT: Did it go relatively easily?

5 JUROR WILLIAMSON: Uh-huh.

6 THE COURT: Have you ever belonged to a club or  
7 organization that systematically excluded blacks from  
8 membership?

9 JUROR WILLIAMSON: Yes. When I was in college  
10 there was a fraternity at that time that did exclude  
11 blacks. I don't think they do today, but they did at  
12 that time.

13 THE COURT: Your dad was a Prosecutor?

14 JUROR WILLIAMSON: Assistant Prosecutor.

15 THE COURT: I didn't know that.

16 JUROR WILLIAMSON: He was also Assistant Attorney  
17 General, at one time.

18 THE COURT: Would his history as a Prosecutor  
19 color your feelings on the case?

20 JUROR WILLIAMSON: No.

21 THE COURT: Have any members of your family ever  
22 been convicted of a crime other than traffic tickets?

23 JUROR WILLIAMSON: No.

24 THE COURT: Now, the jury in this case is going

1 to have to decide not only whether the defendant is  
2 guilty but I'm sure the Prosecutors are going to ask the  
3 jury to return a verdict of first degree murder without  
4 mercy.

5 If the jury returns that verdict, that would mean  
6 that Mr. Moss would go to the penitentiary for the rest  
7 of his natural life, without any possibility of parole?

8 If the evidence proved that, could you return  
9 that verdict?

10 JUROR WILLIAMSON: Yes.

11 THE COURT: Obviously, the other side of that is  
12 that Mr. Moss has pleaded not guilty and is presumed by  
13 the law to be not guilty.

14 If the Prosecutor puts on -- not a nasty case,  
15 but a case that does not prove Mr. Moss's guilt beyond  
16 a reasonable doubt, would you have any hesitation in  
17 finding him not guilty?

18 JUROR WILLIAMSON: I don't think so.

19 THE COURT: Mr. Bickley?

20 MR. BICKLEY: Mr. Williamson, you, of course, due  
21 to your background, understand that the presumption of  
22 innocence goes with Mr. Moss throughout the entire trial,  
23 up to the time you all get back in the Jury Room?

24 JUROR WILLIAMSON: Yes, I understand that.

1 MR. BICKLEY: And do you understand that the  
2 State -- I mean Mr. Moss, does not have to do anything  
3 to prove his innocence? He could just sit there maybe  
4 throughout the trial, but it is the burden of the State  
5 to prove his guilt beyond a reasonable doubt?

6 JUROR WILLIAMSON: Yes, sir.

7 MR. BICKLEY: And do you understand that if you  
8 were to come into the Jury Room after all of the  
9 deliberation and all of the evidence, and you searched  
10 your mind and tried to arrive at a fair decision about  
11 the case, and you come to the conclusion that there is  
12 only a strong suspicion that he might be guilty and you  
13 arrive at the conviction, honestly, that after  
14 considering the evidence and listening to the rationale  
15 of the others in the Jury Room, do you understand that  
16 you would be obligated to vote not guilty, if that was  
17 all that you had?

18 JUROR WILLIAMSON: If I was not convinced?

19 MR. BICKLEY: If you were just suspicious.

20 JUROR WILLIAMSON: Yes, I understand.

21 MR. BICKLEY: Let me ask you, sir, say that you  
22 had arrived at this conclusion and you were suspicious,  
23 but you didn't really feel that the State had proved all  
24 of the elements of the crime, and you are in that Jury

1 Room with all of the other eleven all convinced that Mr.  
2 Moss is guilty -- could you, after listening to them,  
3 still hold the conviction that the State had not done  
4 what they should have done? Would you not hold that  
5 against him?

6 JUROR WILLIAMSON: Yes, I would depend upon the  
7 strength of my conviction. And if I truly felt that Mr.  
8 Moss was not guilty and that they had not proved the  
9 case, I would stand my ground.

10 MR. BICKLEY: Thank you, sir.

11 MS. LUSK: Would you, also, if you were in that  
12 situation where there were eleven people who were  
13 convinced that the case had been proven, would you listen  
14 to their reasons that they thought the case had been  
15 proven?

16 JUROR WILLIAMSON: Yes.

17 MS. LUSK: And take into consideration and talk  
18 about it with them and try to reach a verdict.

19 JUROR WILLIAMSON: Sure.

20 MS. LUSK: Now, Mr. Bickley has indicated to you  
21 that it is the State's burden to prove the case beyond  
22 a reasonable doubt. The burden is not to prove the case  
23 beyond all doubt or beyond a shadow of a doubt. Do you  
24 think that you could follow the law and not hold the

1 State to a greater or stricter burden than the law  
2 requires?

3 JUROR WILLIAMSON: I could, yes.

4 MR. BICKLEY: There is likely to be some  
5 testimony from witnesses who may declare that they are  
6 born again christians. Do you believe that you would be  
7 able to give them greater credibility than anyone else  
8 just because they say that they are born again  
9 christians?

10 JUROR WILLIAMSON: No, sir.

11 MR. BICKLEY: And uniformed Officers that will be  
12 testifying -- do you believe that just because they are  
13 uniformed Officers that their testimony has greater  
14 credibility than any other witness's?

15 JUROR WILLIAMSON: No, sir.

16 MR. BICKLEY: Thank you very much.

17 THE COURT: Thank you, John. You may go back and  
18 have a cup of coffee if you want. We'll get back to you.

19

20 WHEREUPON, John Williamson returned to the Jury  
21 Lounge.

22

23 MR. BICKLEY: For cause.

24 THE COURT: No hesitation about that?

1 MR. BICKLEY: No.

2 THE COURT: The reason I asked additional  
3 questions is because -- who is that guy, Geary somebody  
4 who defended Angela Davis -- his last name was Geary?  
5 He said he did a racial examination of the jury looking  
6 for anything he could find to indicate prejudice. He  
7 said the jurors he always wanted were the ones who said,  
8 "Yeah, I can't tell you a lie. That's the feelings I  
9 grew up with -- in an environment where my father hated  
10 black people and Chinese people." He said, "I'd do my  
11 best to put that all aside." He wanted people who were  
12 candid and frank; and I think that if I were picking a  
13 jury, I'd like him just because he's intelligent and he's  
14 honest enough to tell the truth.

15 MR. BICKLEY: I want him off. My problem with  
16 him was that I think he has been forthright, but he has  
17 too much knowledge about the case.

18 MR. REVERCOMB: That doesn't dismiss him.

19 MR. BICKLEY: He said that it would cause him  
20 some problems.

21 THE COURT: That's why I'm taking him off.

22 MR. REVERCOMB: Your Honor, he said it may be  
23 harder on him, but that's the exact same thing Carol Hays  
24 said, that it would be hard to put someone in the

1 penitentiary because of what she's been through.

2 MR. BICKLEY: She didn't say that.

3 MR. REVERCOMB: Oh, yes, she did say that.

4 MR. BICKLEY: She said she could trust her  
5 judgment.

6 MR. REVERCOMB: I can't argue with what she said,  
7 but I can draw a comparison with him and Carol Hay.

8

9 WHEREUPON, John Williamson was excused from  
10 serving on this jury.

11

12 WHEREUPON, Steve Gancs was brought to the Jury  
13 Room for individual voir dire.

14

15 THE COURT: Hello. How are you Mr. Gancs?

16 JUROR GANCS: Fine.

17 THE COURT: I apologize to you for keeping you  
18 waiting all day yesterday and up to now today.

19 Let me start by asking you if you recall having  
20 heard anything at all about the case?

21 JUROR GANCS: Not really. I mean just basically  
22 the State versus Moss; and that's it.

23 THE COURT: Do you remember hearing anything on  
24 television or newspapers about it?



1 JUROR GANCS: No.

2 THE COURT: Have you lived here all of your life?

3 JUROR GANCS: Uh-huh; except for three months  
4 when I was in Florida.

5 THE COURT: Okay. This happened in 1979. That  
6 was a little while back.

7 If, in the course of this trial, you recall  
8 having heard something you may have heard or seen on  
9 television, can you put that out of your mind and base  
10 your verdict only on the evidence that comes to you in  
11 the Courtroom during the course of this trial?

12 JUROR GANCS: Yes, sir.

13 THE COURT: It's very important to the State and  
14 the defendant for two reasons: One is, as a juror, you  
15 are going to know what is going on more than anybody else  
16 who is reading or writing the paper because they just  
17 stop in for a few minutes and that's it.

18 Another thing -- it's very important to the  
19 lawyers in this case that they know the evidence that is  
20 put on so that they can respond to it and then you can  
21 just base your verdict on this evidence in this case.

22 JUROR GANCS: What's going on in the Courtroom?

23 THE COURT: Yes.

24 Did you know that this trial was starting before

1 yesterday?

2 JUROR GANCS: No.

3 THE COURT: Have you heard any jurors say  
4 anything about this case at any time?

5 JUROR GANCS: No.

6 THE COURT: Okay. Now, where did you attend high  
7 school at?

8 JUROR GANCS: DuPont.

9 THE COURT: I would guess, based on my estimate  
10 of your age that DuPont was integrated when you went  
11 there?

12 JUROR GANCS: Yes.

13 THE COURT: You went to school with black people?

14 JUROR GANCS: Yes.

15 THE COURT: Do you work with black people?

16 JUROR GANCS: Yes.

17 THE COURT: As a result of your contact with  
18 black people, have you formed any opinions that they are  
19 more likely to commit some sort of crime?

20 JUROR GANCS: No more than whites or Indians or  
21 anybody else.

22 THE COURT: Have you ever belonged to any clubs  
23 or organizations that systematically excluded black  
24 people or other persons because of race?

1 JUROR GANCS: At one time, I used to belong to  
2 the Knights of Pythias. That's been so long ago, I'm not  
3 sure if they do or they don't.

4 THE COURT: When was that?

5 JUROR GANCS: 1970 to '75, I guess. Maybe '73,  
6 somewhere in that neighborhood.

7 THE COURT: Have any members of your family ever  
8 been convicted of a crime other than traffic citations?

9 JUROR GANCS: No.

10 THE COURT: In this case, the Prosecutors are  
11 going to ask the jurors, after hearing all of the  
12 evidence in this case, to return a verdict of first  
13 degree murder. The Prosecutors are also going to ask the  
14 jury to not make a finding of mercy. The result of such  
15 a verdict of guilty of first degree murder without mercy  
16 would be for the defendant, Mr. Moss, to go to the  
17 penitentiary for the rest of his life, without ever  
18 having the opportunity for parole.

19 If the evidence so warrants it, could you bring  
20 back such a verdict?

21 JUROR GANCS: Yes, sir, if the evidence warranted  
22 it.

23 THE COURT: Now, Mr. Moss is presumed in this  
24 case to be innocent; okay?

1 JUROR GANCS: Uh-huh.

2 THE COURT: The law says that as we speak, he is  
3 an innocent man. And he is presumed to be innocent until  
4 the State proves to the satisfaction of all of the jurors  
5 that he is guilty beyond a reasonable doubt.

6 Now, in case the Prosecutor fails to prove that  
7 Mr. Moss is guilty beyond a reasonable doubt, would you  
8 have any difficulty at all in finding him not guilty?

9 JUROR GANCS: No.

10 MR. BICKLEY: Mr. Gancs -- am I pronouncing that  
11 right?

12 JUROR GANCS: Yes, sir.

13 MR. BICKLEY: Sir, it is expected that there may  
14 be one or two witnesses who may testify, and during the  
15 course of their testimony they may say that they are born  
16 again christians. Would you give more credibility to  
17 their testimony just because they say that they are born  
18 again christians?

19 JUROR GANCS: No.

20 MR. BICKLEY: Also in this case, there will be  
21 people testifying who are Police Officers, State Police,  
22 or what-have-you. Would you give more credibility to  
23 their testimony simply because they are Police?

24 JUROR GANCS: No.

1 MR. BICKLEY: Now you understand that -- I'm  
2 certain you do, but I just wanted to be positive.

3 Mr. Moss enjoys the presumption of innocence  
4 throughout the entire trial, up until you walk into the  
5 Jury Room to deliberate.

6 JUROR GANCS: Yes.

7 MR. BICKLEY: Do you understand that?

8 JUROR GANCS: Yes.

9 MR. BICKLEY: Do you further understand that Mr.  
10 Moss doesn't have to do anything -- that he may remain  
11 silent and sit there mute throughout the whole trial, but  
12 the State has the burden to prove this case beyond a  
13 reasonable doubt?

14 JUROR GANCS: Yes, sir, I do understand that.

15 MR. BICKLEY: Now, sir, there may come a trial in  
16 this trial that when you search in your heart and in your  
17 mind that you will come to the conclusion that the State  
18 had not carried its burden and that there was a strong  
19 suspicion that he might be guilty. You do understand  
20 that you would be required to find him not guilty, if  
21 that were the situation?

22 JUROR GANCS: Yes, if they didn't prove it beyond  
23 a shadow of a doubt.

24 MR. BICKLEY: They have to prove beyond a shadow

1 of a doubt, but you might have an inkling that he might  
2 be guilty, but that's not enough.

3 JUROR GANCS: Right.

4 MR. BICKLEY: You might be suspicious, but that's  
5 not enough?

6 JUROR GANCS: Right.

7 MR. BICKLEY: Well, let's say, sir, that you  
8 arrived at that stage where you are suspicious that he  
9 might be guilty and you come into this Jury Room and the  
10 other eleven jurors are convinced that he is guilty, and  
11 after they have given you their rationale for why they  
12 believe that he is guilty, you are still convinced in  
13 your own mind that the State had not proven its case  
14 beyond a reasonable doubt. Could you stand firm?

15 JUROR GANCS: If, in the Courtroom, the State had  
16 not proven beyond a shadow of a doubt the evidence and  
17 all that he was guilty, then no, I would not go along  
18 with the other jurors.

19 MR. BICKLEY: Thank you very much, sir.

20 MS. LUSK: Mr. Gancs, can you say -- I know you  
21 haven't had the opportunity yet to hear the law that the  
22 Judge will later instruct you -- but the law doesn't  
23 require the State of West Virginia to prove its case  
24 beyond a shadow of a doubt or beyond all doubt or beyond

1 any possibility of a doubt. The law requires that we  
2 prove a case beyond a reasonable doubt, using the reason  
3 and the common sense that you bring into the Courtroom  
4 with you.

5 JUROR GANCS: Okay.

6 MS. LUSK: That being the law -- that we prove a  
7 case beyond a reasonable doubt, do you think that you  
8 could follow a law -- now, in other words, the law say  
9 we don't have to prove beyond a shadow of a doubt -- only  
10 beyond a reasonable doubt.

11 JUROR GANCS: Well ---

12 MS. LUSK: Reasonable doubt, using your reason  
13 and logic that you bring into the Courtroom.

14 JUROR GANCS: Uh-huh. Yes.

15 MS. LUSK: And you would not require us, in other  
16 words -- or hold us to a stricter burden than that? You  
17 think that you could follow the law?

18 JUROR GANCS: No more than what the law requires,  
19 if that's what the law says?

20 MS. LUSK: Yes.

21 We all know that you haven't had the benefit of  
22 the Judge telling you what the law is yet, and you  
23 wouldn't be expected to know what it is.

24 Mr. Bickley set an example here where you are in

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1 the Jury Deliberation Room and there were eleven jurors  
2 who say that the State has met the burden of proof that  
3 John Moss is guilty beyond a reasonable doubt. If you  
4 were in that situation that Mr. Bickley put you in, where  
5 you were suspicious that he was guilty, do you think that  
6 you could listen to the other jurors with an open mind  
7 and discuss with them their views of why they believe we  
8 have proven the case beyond a reasonable doubt?

9 JUROR GANCS: Yes.

10 MS. LUSK: And take those views into  
11 consideration and try to reach a verdict in this case?

12 JUROR GANCS: Uh-huh.

13 MS. LUSK: Thank you.

14 MR. BICKLEY: I have nothing further.

15 THE COURT: Thank you, Mr. Gancs. If you want to  
16 go back and have a cup of coffee, we'll get back with  
17 you.

18 MR. REVERCOMB: Judge, I do have one question.

19 Would you tend to believe a Police Officer's  
20 testimony less because he is a Police Officer?

21 JUROR GANCS: No. Not one way or the other,  
22 because -- well, just like every other walk of life,  
23 whether it be a doctor -- there's a good example. You  
24 go to some doctors who are caring and are there because



1 of the patients; and then you have other doctors that are  
2 there for the money only, and they could care less.

3 Police officers, I think, are, you know, like I  
4 said, along with every other walk of life, there are some  
5 that are there for one reason, and there are some that  
6 are there for the reason they should be, which is to  
7 uphold the law.

8 MR. REVERCOMB: Thank you.

9 THE COURT: Thank you, Mr. Gancs. We'll get back  
10 with you shortly.

11

12 WHEREUPON, Steve Gancs returned to the Jury  
13 Lounge.

14

15 THE COURT: Does the Knights of Pythias exclude  
16 blacks?

17 MR. BICKLEY: It's an offshoot of the Masons. I  
18 think it's another branch of the Masons.

19 MS. LUSK: Do Masons exclude still yet?

20 MR. BICKLEY: There are black Masons and white  
21 Masons, but obviously, his affiliation -- he didn't know  
22 too much about it.

23 MR. REVERCOMB: He was young. He was probably in  
24 school.

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1 THE COURT: We need to gauge. Let's bring Terrie  
2 Janney back, and if I leave her on, then he'll take No.  
3 15. If I take her off, then I'll put him in No. 10.

4

5 WHEREUPON, Terrie Janney returned to the Jury  
6 Room.

7

8 THE COURT: Hi, Ms. Janney. Come on back one  
9 second. I just wanted to ask you -- Mr. Revercomb said  
10 that he had met you and knew your sister. Do you  
11 remember him?

12 JUROR JANNEY: Yes.

13 THE COURT: Is that a fact? And would that in  
14 any way affect your ability to be impartial in this case?

15 JUROR JANNEY: No, sir.

16 THE COURT: Are you sure?

17 JUROR JANNEY: Yes.

18 MR. BICKLEY: I have no questions.

19 THE COURT: That's all.

20 Okay. Steve Gancs will go to 15. Emma Lou, you  
21 want to roll us out one there?

22 I excused Mr. Smith and I'm going to excuse Mr.  
23 Wayne, and John Williamson, also. You just need to tell  
24 them though that they are going to be needed after lunch;

1 right?

2 THE CLERK: We can let them go on home.

3 THE COURT: Tell them we all thank them for their  
4 patience.

5 THE CLERK: Do you want one or two rolled out?

6 THE COURT: One. I'm going to overrule the  
7 State's motion with regard to Brenda Allen and Carol Hay.  
8 So, we need to fill twenty-four and that's it.

9  
10 WHEREUPON, Joe Duffie was brought to the Jury  
11 Room for individual voir dire.

12

13 THE COURT: Come on in, Mr. Duffie, and have a  
14 seat. Let me start by asking you if you have been  
15 represented by any of these lawyers?

16 JUROR DUFFIE: No, I haven't.

17 THE COURT: Are you acquainted with any of them?

18 JUROR DUFFIE: No.

19 THE COURT: Are you related by blood or marriage  
20 to Mr. Moss or the Reggett people?

21 JUROR DUFFIE: No.

22 THE COURT: Are you acquainted with any of those  
23 people whose names I read to you?

24 JUROR DUFFIE: No, I didn't recognize any of

1       those names.

2               THE COURT:   Not a name?

3               JUROR DUFFIE:  No.

4               THE COURT:   Have you heard anything about this  
5       case?

6               JUROR DUFFIE:  Yes, sir.

7               THE COURT:   Tell me what you've heard.

8               JUROR DUFFIE:  On TV.  I've heard TV about it.

9               THE COURT:   Tell me what you've heard on TV.

10              JUROR DUFFIE:  When it first come out, the lady's  
11       husband was tried, and then later on, Mr. Moss was tried  
12       in Court.  That was probably a year -- year and a half  
13       or two years later, after the lady's husband was tried.  
14       And I've heard remarks since then on TV and I've read in  
15       the paper since then.  I didn't know I was going to be  
16       on the case, so I read something the other day.

17              THE COURT:   That's okay.  What do you remember  
18       reading the other day?

19              JUROR DUFFIE:  About -- that there was going to  
20       be a new trial.

21              THE COURT:   Now, would any of that publicity or  
22       anything you've read give you any difficulty or cause you  
23       any problems at all in being objective in this case?

24              JUROR DUFFIE:  Truthfully, I would say yes.

1 Judge.

2 THE COURT: You think it would?

3 JUROR DUFFIE: Yes.

4 THE COURT: So, you would have some difficulty  
5 listening to the evidence and not being able to put that  
6 out of your mind?

7 JUROR DUFFIE: To put it out of my mind, I would  
8 have to say, yes, Judge.

9 THE COURT: Well, I appreciate that very much,  
10 Mr. Duffie.

11 Do you all have any questions?

12 MR. BICKLEY: No.

13 THE COURT: We appreciate it. I'm going to  
14 excuse you and you can go on home, play hooky, or  
15 whatever you prefer to do.

16 JUROR DUFFIE: Thank you.

17

18 WHEREUPON, Joe Duffie was excused from the panel  
19 for this jury.

20

21 WHEREUPON, Albert Myers was brought to the Jury  
22 Room for individual voir dire.

23

24 THE COURT: Good afternoon, Mr. Myers. How are

1       you?

2               JUROR MYERS:   Good.

3               THE COURT:   Let me start with basically the same  
4       questions that I asked to select the jurors that were  
5       selected this morning.

6               First, did you understand basically what the case  
7       is about?

8               JUROR MYERS:   Yes.

9               THE COURT:   Have you ever heard anything about  
10      this case in the news media or anything?

11              JUROR MYERS:   Yes, it's in the paper this  
12      morning.   I also heard about it on the radio this  
13      morning.

14              THE COURT:   Tell me what   you have read or heard?

15              JUROR MYERS:   Well, about the same thing -- that  
16      the man who committed it admitted it when this happened,  
17      and I've followed it ever since they acquitted him -- I  
18      mean, the Grand Jury.

19              THE COURT:   When was that -- do you remember?

20              JUROR MYERS:   In '87 or '88.

21              THE COURT:   Do you remember any of the facts that  
22      you read in the paper?

23              JUROR MYERS:   About what it is supposed to be  
24      about?

1 THE COURT: Yes.

2 JUROR MYERS: Well, I thought it was pretty  
3 clear.

4 THE COURT: On what?

5 JUROR MYERS: Well, due to the fact that he  
6 admitted it.

7 THE COURT: Would the fact that you've read those  
8 articles cause you to believe that he is probably guilty?

9 JUROR MYERS: I think it would have a strong  
10 bearing on -- that I could sit on a jury.

11 THE COURT: You think it would?

12 JUROR MYERS: Yes, sir, and a strong bearing,  
13 your know, on guilty or not guilty.

14 THE COURT: A strong bearing on the outcome, or  
15 what?

16 JUROR MYERS: My decision.

17 THE COURT: So, you think you would have some  
18 difficulty?

19 JUROR MYERS: Yes, sir, I know I would.

20 THE COURT: Unless there is an objection, I'll  
21 let Mr. Myers go.

22 Thank you, Mr. Myers. I appreciate you being  
23 honest with us.

24 JUROR MYERS: I'm not saying that the man is

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1 guilty or not guilty. I'm just saying that it would be  
2 difficult.

3 THE COURT: I'll let you go on home, then.

4

5 WHEREUPON, Albert Myers was excused from this  
6 jury panel.

7

8 WHEREUPON, George Ball was brought to the Jury  
9 Room for individual voir dire.

10

11 THE COURT: Come on back, Mr. Ball and have a  
12 seat right there. How are you this morning?

13 JUROR BALL: Fine.

14 THE COURT: Let me start by asking you a couple  
15 of questions like I've asked these other jurors.

16 Have you heard anything about this case?

17 JUROR BALL: No.

18 THE COURT: How old are you?

19 JUROR BALL: 28.

20 THE COURT: So, you would have been in high  
21 school back in about 1979?

22 JUROR BALL: Yes.

23 THE COURT: You're from St. Albans?

24 JUROR BALL: Yes.



1 THE COURT: You graduated from St. Albans?

2 JUROR BALL: Yes.

3 THE COURT: All of this stuff happened back in  
4 St. Albans. If you were to hear the evidence in this  
5 case and it reminds you of something that you heard about  
6 it at the time this all occurred, could you put what you  
7 heard about it out of your mind and decide this case  
8 solely on the evidence that occurs here in the Courtroom?

9 JUROR BALL: Yes.

10 THE COURT: Now, I asked the other folks -- have  
11 you ever been represented by any of the lawyers in this  
12 case?

13 JUROR BALL: No.

14 THE COURT: Are you related by blood or marriage  
15 to Mr. Moss or any of the Reggett family?

16 JUROR BALL: No.

17 THE COURT: I've listed a whole list of names of  
18 prospective witnesses. Where any of them familiar to  
19 you?

20 JUROR BALL: I went to school with a guy named  
21 Scott Leasure. That was really the only one I  
22 recognized. Now, whether it's the same one -- I don't  
23 know.

24 THE COURT: In high school?

1 JUROR BALL: Yes.

2 THE COURT: In St. Albans?

3 JUROR BALL: Uh-huh.

4 THE COURT: Do you think that's him?

5 MR. REVERCOMB: Probably.

6 THE COURT: Were you a friend of his when you  
7 were in high school?

8 JUROR BALL: I just knew the name.

9 THE COURT: Was he a guest in your home?

10 JUROR BALL: No.

11 THE COURT: Were you a guest in his house?

12 JUROR BALL: No.

13 THE COURT: Did you play any sports together?

14 JUROR BALL: I think he might have -- if it's the  
15 same one, I think we might have played Junior High  
16 basketball -- on the same team, in the seventh grade or  
17 eighth grade, one year.

18 THE COURT: Have you seen him lately?

19 JUROR BALL: No.

20 THE COURT: Would the fact that you know him  
21 cause you to believe him more or less than any other  
22 witness?

23 JUROR BALL: No.

24 THE COURT: Do you remember any other names?

1 JUROR BALL: No.

2 THE COURT: Before yesterday, did you know that  
3 this case was set for trial?

4 JUROR BALL: No.

5 THE COURT: Have you heard any jurors talk about  
6 the case?

7 JUROR BALL: No.

8 THE COURT: Now, when you went to St. Albans High  
9 School, it was integrated; wasn't it?

10 JUROR BALL: Yes.

11 THE COURT: Have you -- since you got out of high  
12 school, worked with black people?

13 JUROR BALL: Uh-huh.

14 THE COURT: As a result of your experience with  
15 black people, are you -- do you think that they are more  
16 likely to commit a crime than anybody else?

17 JUROR BALL: No.

18 THE COURT: Have you ever belonged to any clubs  
19 or organizations that excluded persons because of their  
20 race?

21 JUROR BALL: No.

22 THE COURT: Have any members of your family ever  
23 been convicted of any crime other than a traffic  
24 violation?

1 JUROR BALL: No.

2 THE COURT: Now, this is a capital offense. What  
3 that means is this: At the close of the evidence in this  
4 case, the Prosecutors are going to ask the jury that  
5 hears this case to find Mr. Moss guilty of three counts  
6 of first degree murder, and they are also going to ask  
7 the jury to not find mercy in the case.

8 If Mr. Moss is found guilty of any one or more  
9 counts of first degree murder without a finding of mercy,  
10 that means that he would go to the penitentiary for the  
11 rest of his life, with no chance of ever being released.

12 If the evidence warrants it, could you find such  
13 a verdict?

14 JUROR BALL: Yes.

15 THE COURT: Now, Mr. Moss's side of that case is  
16 pretty simple, too. He's pleaded not guilty and the law  
17 presumes him to be innocent. He doesn't have to prove  
18 that he is innocent. The fact is that the Prosecutors  
19 have got to prove that he is guilty, and they have to  
20 prove that he is guilty beyond a reasonable doubt.

21 Now, if they put on evidence about it -- it's a  
22 pretty unpleasant crime, but if that evidence didn't show  
23 that Mr. Moss is guilty beyond a reasonable doubt, do you  
24 believe that you could still find him not guilty?

1 JUROR BALL: Yes.

2 MR. BICKLEY: Mr. Ball, sir, we expect, during  
3 the course of the trial that there may be one or two  
4 witnesses who may get on the witness stand and indicate  
5 that they are born again christians. Would that fact  
6 alone make you give them greater credibility of their  
7 statements than anyone else?

8 JUROR BALL: No.

9 MR. BICKLEY: Also, it's expected that several  
10 Police Officers will testify. The fact that they are  
11 Police Officers alone, would that make them have greater  
12 credibility in your mind?

13 JUROR BALL: No, sir.

14 MR. BICKLEY: Now, sir, you know that the  
15 presumption of innocence follows Mr. Moss throughout the  
16 entire trial, until you come into this Jury Deliberation  
17 Room to deliberate.

18 Further, Mr. Moss does not have to do anything to  
19 prove his innocence -- nothing. But the State has the  
20 burden of proving their case beyond a reasonable doubt.

21 Now, I ask you if, at the end of the State's  
22 case, and you have listened to and heard all of the  
23 testimony and evidence that have been presented, and you  
24 come to the conclusion that the State had not proven its

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1 case, that there was a suspicion that Mr. Moss might be  
2 guilty -- do you understand that you must vote not guilty  
3 if that is how you feel?

4 JUROR BALL: Yes.

5 MR. BICKLEY: Okay. Now, let's take that  
6 hypothetical one step further. Let's assume that you  
7 come to this after you have searched your soul, and you  
8 said to yourself that the State had not proven its case  
9 beyond a reasonable doubt -- "I may think he might be  
10 guilty but they haven't proved it." Can you walk into  
11 the Jury Room with eleven other people in there saying  
12 that he's guilty, and after you listen to them in their  
13 deliberation and you are still convinced that the State  
14 has not proven its case, can you stand alone?

15 JUROR BALL: Yes.

16 MR. BICKLEY: Thank you very much, sir.

17 MS. LUSK: If, on the other hand, when you went  
18 into the Jury Deliberation Room and those other eleven  
19 people were telling you that they thought that the State  
20 had proven its case, and you were suspicious that he was  
21 guilty, as Mr. Bickley has indicated -- do you think you  
22 could listen to those other eleven people and discuss  
23 with them their views and their reasons that they believe  
24 that the State has proven its case?

1 JUROR BALL: You mean, if they all think that he  
2 is guilty -- or whatever you said?

3 MS. LUSK: Uh-huh.

4 JUROR BALL: I could understand that.

5 MS. LUSK: You would listen to them?

6 JUROR BALL: I could do it, but that would be  
7 like maybe beyond a reasonable doubt.

8 MS. LUSK: Sure. But would you talk to them and  
9 listen to their reasoning for why they thought that the  
10 case had been proven?

11 JUROR BALL: Oh, yeah.

12 MS. LUSK: Now, Mr. Bickley has indicated that  
13 the State has to prove its case beyond a reasonable  
14 doubt. That's always our burden in a criminal case.  
15 It's not our case, however, to prove our case beyond all  
16 doubt or beyond any doubt. It's a doubt based on reason  
17 and common sense, beyond a reasonable doubt.

18 Do you think that you could follow that law and  
19 not hold the State to any higher or stricter burden than  
20 the law requires?

21 JUROR BALL: Yes.

22 MS. LUSK: Now, you say you are from St. Albans?

23 JUROR BALL: Yes.

24 MS. LUSK: When you went to high school there,

1 did you ever go to school with anybody named Moss?

2 JUROR BALL: Kevin.

3 MS. LUSK: Kevin Moss?

4 JUROR BALL: Yes.

5 MS. LUSK: Did you see him yesterday?

6 JUROR BALL: Yes.

7 MS. LUSK: Did you talk to him?

8 JUROR BALL: Yes.

9 MS. LUSK: Did you talk to him about this case?

10 JUROR BALL: No. I didn't even know about this  
11 case.

12 MS. LUSK: Would it present any difficulty for  
13 you?

14 JUROR BALL: No.

15 MS. LUSK: It wouldn't?

16 JUROR BALL: It wouldn't create any difficulty  
17 for what -- because his name is Moss?

18 MS. LUSK: Yes.

19 JUROR BALL: No.

20 MS. LUSK: Or that he was related to this man  
21 named Moss?

22 JUROR BALL: No.

23 MS. LUSK: If you were to find yourself in a  
24 position where you thought that John Moss was guilty and



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1 that he should spend the rest of his life in the  
2 penitentiary, could you face Kevin Moss and say, "I was  
3 right." That wouldn't create any difficulty for you or  
4 make you uncomfortable with him?

5 JUROR BALL: No.

6 MS. LUSK: How about any other Moss's? Do you  
7 know any other Moss's from St. Albans?

8 JUROR BALL: No.

9 MS. LUSK: You don't remember John Moss from St.  
10 Albans High School?

11 JUROR BALL: No.

12 MR. REVERCOMB: I don't know if Judge MacQueen  
13 has already asked you this, but let's say during the  
14 trial that some evidence comes in that jogs your memory  
15 and you think, "Oh, I was a senior in high school," or,  
16 "I remember when that happened." Can you put that out  
17 of your mind and consider only what evidence comes to you  
18 in the Courtroom?

19 JUROR BALL: Oh, yes.

20 MR. REVERCOMB: Thank you.

21 MR. BICKLEY: No more questions.

22 THE COURT: You can go back and join the rest of  
23 the jurors, and we'll get back to you in just a moment.

24

1           WHEREUPON, George Ball returned to the Jury  
2 Lounge.

3  
4           MR. BICKLEY: Would you let Mr. Moss, Cathy and  
5 I huddle in here to consider our strikes, before we go  
6 out there?

7           THE COURT: Oh, absolutely. Right. I'm going to  
8 give you some time. What I'm going to do -- what does  
9 this mean -- George?

10          MS. LUSK: George Ball?

11          THE COURT: Let's go through these names and make  
12 sure that we've got the same information; okay?

13          No. 1, David Smith; 2, Patrick Cooke; 3, Frances  
14 Batman; 4, Elizabeth Stern; 5, Carol Hay; 6, Sherry  
15 Grubb; 7, Jacqueline Hill; 8, Martha Brady; 9, Michele  
16 Williamson; 10, Terrie Janney; 11, Wanda Young; 12, Helen  
17 Christ.

18          MR. BICKLEY: 11 is who?

19          THE COURT: Wanda Young. 13, William Burroughs;  
20 14, Carl McLaughlin; 15, Steve Gancs; 16, William Boyd;  
21 17, Linda Haynes; 18, Nolan Holstein; 19, Brenda Allen;  
22 20, Alice Fawcett; 21, Lonnie Kilgore; 22, Beverly  
23 Samples; 23, Tammy Edwards; and 24, George Ball.

24          Let the record show that we have taken the

1 worksheets that he had, based on a confirmation of those  
2 names, and have made a separate strike sheet, instead of  
3 a strike sheet that would have all of the names on it.

4 What we will do, is between now and the close of  
5 this trial, we will do another strike sheet that simply  
6 preserves the record of who all was called and where they  
7 will replace people and how they were excused and the  
8 like. It is just so much easier to work with a clean  
9 strike sheet.

10 Okay. Neva?

11 MS. LUSK: Judge, we would like to ask the Court  
12 to not swear the jury in and empanel them until at least  
13 after the lunch recess, just on the off-chance that the  
14 Supreme Court would grant the Petition for a Writ of  
15 Prohibition that has been filed by the defendant this  
16 morning.

17 I don't know if they will give us any information  
18 after we come back or not, but we would at least like as  
19 much time lag as possible in order to determine whether  
20 the Supreme Court is going to grant that.

21 MR. BICKLEY: We have information, I guess, in  
22 support of our motion.

23 THE COURT: I'm going to do that, although, I  
24 frankly, believe that if we empanel the jury and we've

1 got a writ, that that would be such manifest necessity  
2 as would warrant either holding the jury forever, or more  
3 likely granting a mistrial.

4 I would imagine that it's going to take a month  
5 or two anyway for them to answer.

6 MR. BICKLEY: You know, I've talked to Tom and he  
7 has said that he will convey to the Court precisely what  
8 we are doing and try to get a decision out as quickly as  
9 possible.

10 THE COURT: Okay. We'll just seat them and send  
11 everybody who we're not going to use home and ask them  
12 to come back at 1:30. We'll decide where to go from  
13 there if we still haven't gotten some response from the  
14 Supreme Court.

15 We can then swear them in and then do the  
16 openings.

17

18 WHEREUPON, the Defendant, his counsel, the  
19 Prosecutors, and the Court staff then returned to the  
20 Courtroom.

21

22 THE COURT: Ladies and gentlemen, as your names  
23 are called, would you take a seat in the jury box in the  
24 anticipated position please?

1 Juror No. 36, Steve Gancs, Seat No. 1; Juror No.  
2 10, William Boyd, Seat No. 2; Juror No. 6, Frances  
3 Batman, Seat No. 3; Juror No. 107, Elizabeth Stern, Seat  
4 No. 4; Juror No. 4, Linda Haynes, Seat No. 5; Juror No.  
5 40, Sherry Grubb, Seat No. 6; Juror No. 50, Jacqueline  
6 Hill, Seat No. 7; Juror No. 11, Martha Brady, Seat No.  
7 8; Juror No. 124, Michele Williamson, Seat No. 9; Juror  
8 No. 51, Nolan Holstein, Seat No. 10; Juror No. 126, Wanda  
9 Young, Seat No. 11; Juror No. 32, Alice Fawcett, Seat No.  
10 12; Juror No. 96, Beverly Samples, Seat No. 13; Juror No.  
11 5, George Ball, Seat No. 14.

12 THE COURT: Those of you whose names I did not  
13 call are excused from further participation in this  
14 trial. I would ask two things of you. One of them  
15 relates to this case. I would ask that you not discuss  
16 any of the things which have occurred during the course  
17 of this trial, either with the members of the jury or  
18 with other persons outside the jury, until you have word  
19 that this trial has been concluded and that a verdict has  
20 been reached.

21 The second thing I would ask you to do is to  
22 please call the Clerk's number this afternoon or this  
23 evening just on the off-chance that there may be a trial  
24 to begin tomorrow.

1 I thank you all very much for your patience and  
2 your consideration through what I'm sure is relatively  
3 a trying time in terms of the waits that you have had to  
4 go through. Thank you very much.

5 Now, the rest of you are jurors who have been  
6 selected in this case and to determine the issues in  
7 controversy. I'm going to excuse you for lunch and I  
8 would ask that you come back at ten minutes of two.  
9 That'll give you an hour and twenty-five minutes.

10 Before I do that, I want to ask a couple of  
11 things that I think are extremely important of you.

12 First, I read the first piece of news coverage in  
13 this case for this trial in this morning's paper. I am  
14 going to ask you that during the entire process of this  
15 trial, that you not read any newspaper accounts or watch  
16 television or listen to radio accounts that relate to  
17 this case. My experience is that you will get coverage  
18 tomorrow and the next day and then it will kind of  
19 dwindle off and there will be a little blurb here and a  
20 little blurb there. Then as we approach the end of the  
21 case, the news coverage will pick back up.

22 Nevertheless, do everything you can to keep any  
23 independent information on this case away from yourself,  
24 by the media or otherwise. Please do not discuss the

1 case among yourselves, and I'll be giving you some more  
2 details about why that is so important after lunch. Nor  
3 should you discuss it with anyone else.

4 In this Courthouse, we have the luxury of having  
5 some room. We also have the luxury of having two general  
6 areas of coming and going, so you are able to leave in  
7 the back and not be in the general proximity of the  
8 witnesses, and so forth.

9 In addition, the State and defense counsel will  
10 instruct their witnesses not to have any conversations  
11 with you jurors. Nonetheless, if anyone should attempt  
12 to discuss this case with you under any circumstances,  
13 I would ask that you tell them that the conduct is  
14 improper, and alert me as soon as it happens. I have no  
15 reason to believe that it is going to happen, but in the  
16 event that it does, I really need to know about it about  
17 as quickly as it does.

18 With that, I'm going to excuse you until twenty  
19 minutes till two, where we'll pick up with the evidence  
20 and opening statements, and such other activities in this  
21 case as may be appropriate. Hopefully, we'll be able to  
22 introduce some evidence this afternoon.

23 Thanks again for your patience. When you come  
24 back, just come on back to the Jury Lounge at twenty

1 minutes till two and we'll start shortly after that.

2

3 WHEREUPON, the Court stood in the noon recess in  
4 the hearing of this case.

5

6 (Back on the Record after Noon Recess)

7

8 THE COURT: The State has a number of photographs  
9 which you want to tender into evidence in this case. Do  
10 you want to go through them in the order that we'll take  
11 them up?

12 I want to see them, number one, and also, we want  
13 to address any objections other than authenticity. I  
14 assume that we're going get some -- that the guy who has  
15 taken the pictures is going to testify?

16 MR. REVERCOMB: Right.

17 MR. BICKLEY: Did you keep the exhibits numbered  
18 the same?

19 MR. REVERCOMB: They're exactly the same.

20 MS. LUSK: There are a few additional ones.  
21 These photographs that I showed you the other day, and  
22 that Tim looked at, the Polaroids, and there's a  
23 handkerchief box that hasn't been marked. Vanessa's  
24 nightgown had previously not been marked.



1 MR. BICKLEY: Were they introduced in the first  
2 trial?

3 MS. LUSK: No. Paul Eric's pajamas -- T-shirt  
4 and pajamas has not been marked.

5 MR. REVERCOMB: We're not going to use the  
6 curtain rod or anything like that.

7 THE COURT: Let's see what you have.

8 MR. REVERCOMB: Your Honor, these are in order.

9 MS. LUSK: They're in the order in which he is  
10 going to use them, which is not in order of one through  
11 whatever.

12 MR. REVERCOMB: They're basically in order of  
13 outside the house, and then room-by-room.

14 THE COURT: All right. In the first series of  
15 photographs, there's State's Exhibits 1, 3, 4, 5, 12, 85,  
16 86, 87, 88 and 89. Do you want to take a look at all of  
17 those? They're a bunch of external photographs.

18 Do you have any objections to any of those?

19 MR. BICKLEY: No, we have no objection.

20 THE COURT: No objection to that series; okay.

21 The next group are 50, 47, 57, 63, 46, 51, 48,  
22 65, 21, 49, 58 and 84; with the exception of number 65,  
23 which shows the feet of someone through the door. They  
24 are all just generally photographs of inside. There are

1 occasional pictures of blood stains and that sort of  
2 thing.

3 Is the bed wet from water out of the bathtub?

4 MS. LUSK: Yes.

5 MR. BICKLEY: I have no objection.

6 THE COURT: Okay. Now, I have got another  
7 series, each of which contains photographs of parts of  
8 the household. They are 81, 83, 32, 29, 41, 25, 27, 35,  
9 40, 56, 44, 34, 17, 18, 16, 6, 20 and 45.

10 MS. LUSK: Are you going through those in the  
11 same order that he had them?

12 THE COURT: Yes.

13 MS. LUSK: Because there was another group. He  
14 had those organized by witness, and another group  
15 organized by a different witness. There are more  
16 pictures of people, and so forth. Okay.

17 I didn't want your Honor to think that that was  
18 the only group of people pictures.

19 THE COURT: Right.

20 MR. BICKLEY: Your Honor, do we have these  
21 pictures in black and white?

22 MS. LUSK: No, we don't. The autopsy photographs  
23 are in black and white.

24 MR. BICKLEY: These are the ones that I'm talking

1       about.

2               MR. REVERCOMB: None of them are black and white.

3               MR. BICKLEY: Do you have to show both of them?

4               MS. LUSK: Both of what?

5               MR. BICKLEY: Of Mrs. Reggett.

6               MS. LUSK: That's not bloody. What are you  
7       objecting to?

8               MR. BICKLEY: It's gruesome, the blood is.

9               What's the difference? What do these two  
10       pictures show different? What do you want to prove?

11               MS. LUSK: Are you stating an objection that we  
12       are going to argue here?

13               MR. BICKLEY: Are you using both of them? That's  
14       the argument.

15               MS. LUSK: You can't see the way the cord comes  
16       out of the door on this one. What number are those?

17               MR. REVERCOMB: 9 and 32.

18               MS. LUSK: What pictures are you looking at?

19               MR. BICKLEY: I'm looking at 32 and 29.

20               THE COURT: What's this spackled mark on her  
21       face?

22               MS. LUSK: Petechiae; it's a hemorrhage from  
23       suffocation.

24               THE COURT: That's the knife wound -- or, I mean

1 the scissors wound?

2 MS. LUSK: Yes.

3 MR. BICKLEY: Your Honor, I take exception to 25  
4 and 27. I think they are redundant, and I believe that  
5 35, I believe, and 41, or 35 and 29 tells the same story.

6 MS. LUSK: 32 and 29.

7 MR. BICKLEY: Okay, 32 and 29 is what it was. 27  
8 and 25.

9 THE COURT: You think those are all essentially  
10 the same?

11 MR. BICKLEY: It's two different pictures of two  
12 different things. One, I don't know the purpose of these  
13 two are, 27 and 25. I can understand showing one of  
14 these. We're not denying that the lady is dead. We just  
15 think that it's redundant and overkill and tends to be  
16 gruesome. We think only one of these should be shown,  
17 and I don't know whether either one of these should be  
18 shown. I don't know what purpose is served other than  
19 to say that she had the scissors in her chest.

20 THE COURT: Okay. Let's deal. What are those  
21 numbers -- 35 and 32?

22 MS. LUSK: I thought 32 and 29 was your  
23 objection.

24 MR. BICKLEY: You grabbed them a minute ago.

360

1 It's the two of Mrs. Reggett lying down -- not the half  
2 shots. One of those, obviously, you could show; but I  
3 don't see the need for two.

4 MS. LUSK: Judge, they show a lot of  
5 relationships. They show the relationship of the knife  
6 blade to the blood ---

7 THE COURT: I may be leading this issue, but in  
8 this bunch, you've got more of the same. Have you pared  
9 these photographs down to what you think is essential to  
10 your case?

11 MR. REVERCOMB: We've done that two or three  
12 times, your Honor.

13 MS. LUSK: Your Honor, I might add, too, that in  
14 this group -- and there may be some in this group over  
15 here that you haven't seen yet (Indicating), that may be  
16 somewhat repetitive because -- no, I mean that you  
17 haven't seen in this group that they haven't seen -- they  
18 might be repetitive, but my first inclination was to set  
19 them up in a manner in which no witness was going to have  
20 to look at a slide that another witness had looked at.  
21 I wanted to set up a carousel once, so that it would flow  
22 easily and we wouldn't have to go back and try to shuffle  
23 through this lot, put it back in the carousel in  
24 different directions -- although I thought essentially

1       they were some of the same photographs.

2               If it's this group (Indicating) that the Court  
3       has a problem with, there being some repetitive things  
4       in, then we can always reshuffle the carousel. That  
5       would take a little bit of time in the reshuffling.

6               THE COURT: I think one or both of you told me  
7       that all of these photographs were admitted in the  
8       previous trial. I have no idea if the issue was ever  
9       raised on repeating.

10              MS. LUSK: I don't think it was.

11              THE COURT: There are some times in which I am  
12       willing to get very aggressive in restricting evidence,  
13       and then there are times that I will let you hand  
14       yourself. There isn't any question that you need some  
15       of these photographs to just graphically depict the  
16       circumstances. And obviously, it makes it much easier  
17       to understand.

18              At some point of another, you may go over the  
19       line, it seems to me, of just hammering -- I'm not sure  
20       that it's gruesome though, frankly. I found the  
21       photographs distressing more than gruesome. And you and  
22       I have seen these photographs. We have seen other  
23       photographs of this type often. And I doubt that any  
24       member of this jury has ever seen this offensive a

1 photograph.

2 MS. LUSK: Because of that, too, I think we know  
3 that this is not gruesome. We've seen gruesome  
4 photographs, and there are some photographs out there  
5 that are gruesome.

6 THE COURT: I don't know what gruesome means.  
7 You've got a couple that are kind of gruesome. Grisly,  
8 if not gruesome.

9 I'm concerned that you're just going to  
10 overreach, and all I need to know is do you believe that  
11 each separate photograph has, standing alone, such  
12 probative value as warrants admission of all photographs  
13 that you've labeled?

14 MS. LUSK: Judge, we've gone through them all and  
15 chosen reasons for each one of them. There is a good  
16 reason for each one of them. If that answers the Court's  
17 question. I mean, I -- you know, we spent a lot of time  
18 looking at these pictures -- hours and hours looking at  
19 these photographs.

20 THE COURT: Okay. That is, in fact, the same  
21 photograph?

22 MS. LUSK: That is one of the ones that I was  
23 talking about that might be repetitive, because we were  
24 talking about having a carousel of slides.

1 THE COURT: Is there anything in number 28 that  
2 is not contained in that one right there (Indicating) or  
3 in this one (Indicating), or vice versa?

4 MS. LUSK: Let me see what you're looking at.

5 MR. REVERCOMB: They're obviously close, that's  
6 for sure.

7 THE COURT: This one (Indicating), and the one  
8 just below it are almost identical.

9 This one and this one (Indicating) are; they are  
10 very close.

11 And this one is exactly the same as that  
12 photograph over there.

13 MS. LUSK: Right. But Judge, that's why I had  
14 sorted out and kept separate the group that you're  
15 holding, because some of those are repetitive of these.  
16 These, we had chosen for one witness; and the group that  
17 you're holding were chosen for three different witnesses.  
18 Do you know what I mean?

19 But if the Court is concerned, though, for  
20 instance about ---

21 THE COURT: Probably, I don't have any problems  
22 if you've got those same photographs that you're just  
23 simply going to show to different witnesses and consider  
24 it a single photograph, instead of showing the same



1 photograph -- I don't have any problem with that.

2 What I think I would have a problem with is  
3 immediately here we're looking at maybe a total of eight  
4 or nine photographs of Mrs. Reggett, all different. And  
5 what I need to know is -- if you take all of those  
6 photographs and labeled it independently as having  
7 probative value to admit these separate photographs, can  
8 you cut it down to the same information using four  
9 instead of eight?

10 Was this case tried before the gruesome  
11 photograph rule?

12 MS. LUSK: No. Are you talking about Rowe, that  
13 Wood County case? There's Rowe and there's Beck ---

14 THE COURT: Yeah, but the one that they really  
15 came down with the gruesome rule on was the Parkersburg  
16 case -- I can't remember when it was.

17 MR. REVERCOMB: '79. Your Honor, these are  
18 distressing photographs, but I think by law they wouldn't  
19 qualify as gruesome.

20 MS. LUSK: This -- we will take out 44, if you  
21 have an objection to that.

22 MR. HUFFMAN: Is that the bathroom?

23 MR. BICKLEY: No, it's the blood on the floor.

24 What about those two right there?

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1 MS. LUSK: This one shows the noose, and this  
2 other one shows the scissors.

3 MR. BICKLEY: You've got the scissors twice.

4 MS. LUSK: But you can't see the nightgown in  
5 this one (Indicating), where there's blood on her  
6 nightgown.

7 I take it, if we would withdraw 25, you would not  
8 have an objection to 27?

9 MR. BICKLEY: Which is 27?

10 MS. LUSK: Less of her face in 27, that's why I  
11 chose it, and more of the cord.

12 MR. REVERCOMB: Except 25 is out.

13 MS. LUSK: All right.

14 THE COURT: You want to put that right there  
15 (Indicating)?

16 MS. LUSK: 27 is in.

17 MR. BICKLEY: What's 16 for?

18 MR. REVERCOMB: It's nothing bad; you can just  
19 barely see his feet.

20 MS. LUSK: Why are you objecting to that, Mr.  
21 Bickley?

22 MR. BICKLEY: I can't say it's gruesome, if  
23 that's what you're talking about. I'm just trying to  
24 find out why.

1 MS. BECKETT: Are these two different?

2 MS. LUSK: You can see the cord by her feet in  
3 this one.

4 MR. BICKLEY: Have we shown one of the kid's  
5 pictures?

6 MS. LUSK: We're still on Vanessa.

7 MS. BECKETT: What's this one?

8 MR. REVERCOMB: It's a reverse view of this  
9 doorway into the front bedroom.

10 THE COURT: What are those two numbers?

11 MS. LUSK: 32, 35 and 42.

12 THE COURT: I'll let you have 32, 35 and 40. And  
13 there was another one over there with a much closer shot  
14 that you wanted to use.

15 MR. REVERCOMB: Your Honor, we want 29.

16 THE COURT: Yeah, right. What's the number of  
17 that?

18 MS. LUSK: 27.

19 THE COURT: You may use 37, also. Isn't that the  
20 same thing?

21 MR. REVERCOMB: We'll substitute 29 for ---

22 MS. LUSK: You don't ---

23 THE COURT: You don't see the blood spot in that  
24 one as well as you do in this one. So we'll take out 35.

1 MS. LUSK: We're going to withdraw 25.

2 MR. REVERCOMB: This one shows the blood spot  
3 well too, though.

4 MS. BECKETT: So does this one (Indicating).

5 THE COURT: Whatever this one is, if you want,  
6 you may use both of these photographs. I don't find them  
7 that -- what is this one?

8 MR. REVERCOMB: 29 and 35.

9 THE COURT: 29 and 35; okay. Now, what else do  
10 you have?

11 MS. LUSK: Do you have an objection to that one  
12 down there, Nelson?

13 MR. BICKLEY: No.

14 MS. LUSK: What number is that?

15 MR. BICKLEY: 16.

16 THE COURT: 16 may come in, then.

17 There are two that are face down right there.  
18 What are those?

19 MS. LUSK: You don't object to those?

20 MR. BICKLEY: No.

21 MS. LUSK: Tell us those numbers.

22 MR. BICKLEY: 41, 38, 81.

23 THE COURT: Those will all be admitted. 38 was  
24 probably out of this stack over here (Indicating).

1 MR. BICKLEY: What about those two right there?  
2 Did we decide on those two? Were you going to need both  
3 of those pictures?

4 MR. REVERCOMB: What we liked about this, this  
5 one shows the pistol grips, which is a big part of this  
6 case. And that's State's Exhibit 18. It also shows the  
7 powder burns on the back of the bed there.

8 MR. BICKLEY: Well, why don't you keep that one  
9 and take this one out?

10 MR. REVERCOMB: This one shows the rest of the  
11 outline.

12 MR. BICKLEY: That one shows the outline; what  
13 does the other one ---

14 MR. REVERCOMB: This one has ---

15 MR. BICKLEY: It's also more gruesome than the  
16 other one, too.

17 MR. REVERCOMB: What the difference between  
18 graphic and gruesome?

19 THE COURT: May I see this one?

20 MR. BICKLEY: I think the other picture can do  
21 the job and has more -- does more than that one right  
22 there.

23 MR. REVERCOMB: Her panties are shown in this  
24 one.

1 MR. BICKLEY: You have to have a picture to show  
2 the panties? Just show the panties as an exhibit.

3 MS. BECKETT: What does this one show that is so  
4 special in this one (Indicating)?

5 MS. LUSK: The grips.

6 MS. BECKETT: You've got the grips right here.

7 THE COURT: Show 18 as withdrawn.

8 MS. LUSK: You don't have an objection to 17,  
9 since it's not repetitive; right?

10 MR. BICKLEY: Right.

11 THE COURT: And I'll let 20 in, noting the  
12 defendant's objection to it.

13 Do you object to that, Ms. Beckett? Look at  
14 these two. If the point you want to show -- I see the  
15 difference in the woman's leg, but other than that ---

16 MS. LUSK: This is one we've already marked in,  
17 number 17.

18 MR. REVERCOMB: Number 20 shows the powder burns  
19 on the sheet.

20 MR. BICKLEY: We've got the powder burns up there  
21 in the blowup.

22 THE COURT: One of the things I'm going to let  
23 them try to do is depict the relative positions of stuff,  
24 and that's why a photograph like this seems to me to be

1 as valuable as anything of the lot.

2 MS. LUSK: We're using 20 as a example.

3 THE COURT: Right. And frankly, I don't have any  
4 problems with that photograph, either. I think that the  
5 question was, we need both of these photographs -- what  
6 did we say, these photographs that we're talking about,  
7 number 34 and number 20?

8 MR. REVERCOMB: Do we have another picture that  
9 shows -- well, these show where the bodies were at.

10 MS. BECKETT: Picture 45 shows the back room.

11 MS. LUSK: We withdraw 34.

12 MR. REVERCOMB: Do we have the relationship of  
13 this blood?

14 MS. BECKETT: Yeah, it's in one of the others.

15 THE COURT: I'm going to let them use those three  
16 photographs. I don't think that they are adequately  
17 repetitive of some unpleasant aspect of this case to the  
18 extent that it's going to make any difference, and the  
19 three in combination really do show the relative  
20 positions.

21 So you all probably want to object then to the  
22 designation of the material depicted in 34, 20 and 45,  
23 but I'll let the State use them.

24 Now, those two photographs (Indicating) --

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1       there's no problems with them?

2               MS. LUSK: No. This one we marked no objection  
3       on my sheet. It's been 36.

4               THE COURT: The next set are in order. 52, 59,  
5       82, 22, 8, 9, 64, 15 ---

6               MR. REVERCOMB: Stop there. You're going into a  
7       different room as you leave 15.

8               THE COURT: 24, 54, 55, 66, 67, 69, 10 and 79.  
9       I don't think that there are any people depicted in any  
10      of these photographs. That's what I lumped them  
11      together. Look at those to see if they are accurate.

12              Any problem with that series?

13              MR. BICKLEY: I don't see any.

14              Do you see any problem, Kathy? If so, speak up.

15              MS. BECKETT: Well, maybe not. Well, no.

16              THE COURT: Okay. The next in the series are 71,  
17      73 and 74.

18              MR. BICKLEY: Why do we need -- we take exception  
19      to State's Exhibit 74. We believe that the evidence they  
20      desire to present is available in State's 73.

21              THE COURT: Let me ask you this -- tell me what  
22      you're going to attempt to show, other than the  
23      relationship of perspective in these photographs?

24              MR. REVERCOMB: Of course.



1 THE COURT: Assume one thing as a given -- that  
2 there is not going to be any contest that these three  
3 people were killed.

4 MR. REVERCOMB: Right.

5 THE COURT: So, they didn't die by some natural  
6 causes.

7 MR. REVERCOMB: Your Honor, this photograph shows  
8 an important thing; it's just better than the two others.  
9 It does show the mottling in her legs. Dr. Sopher will  
10 testify significantly to that.

11 Now, this photograph 73, you just don't see it as  
12 well. You just don't see the condition of her legs. 73  
13 also shows the blood.

14 MR. HUFFMAN: I propose that we have problems  
15 with 74 ---

16 MS. LUSK: Your Honor ---

17 MR. HUFFMAN: -- as well as 73.

18 MS. LUSK: I'm sorry. I didn't mean to cut you  
19 off.

20 MR. HUFFMAN: I don't know what you're attempting  
21 to show, but my feeling is that the closeup shot -- I  
22 mean, it shows things that are available in other  
23 photographs. I just think it has the ability to inflame  
24 the jury. I just don't think that it shows anything

1 different that you can't get from the other photographs.

2 MS. LUSK: It's 74 that you're speaking of?

3 MR. HUFFMAN: Yes.

4 MS. LUSK: It shows the mottling of the legs,  
5 which is very significant in the legs because the child  
6 was hung. That's a condition of rigor mortis. That  
7 condition had shifted by the next day at autopsy, which  
8 is also significant. We need to see it at the time at  
9 the scene.

10 MR. HUFFMAN: I understand that, and I'm  
11 certainly no physician, but it appears to me that the  
12 condition of the legs is the same in both 73 and 74.

13 MS. LUSK: You can't see it, it's too far away in  
14 the one you're talking about, Tim.

15 MR. REVERCOMB: We're not going to offer 75.

16 MS. LUSK: Yes, we are. This is for Sopher.  
17 This is to show the drying on the tip of her tongue,  
18 which is a significant concern on that one.

19 THE COURT: Because of time?

20 MS. LUSK: It's a symptom of hanging. The  
21 mottling has to do with time.

22 THE COURT: Is there any dispute that she was  
23 hanged?

24 MR. REVERCOMB: It's important to show that.

1 MS. LUSK: It was important the last time. I  
2 don't know if it is this time or not.

3 MR. BICKLEY: Did it ---

4 MR. REVERCOMB: McKittrick had the Troopers put  
5 evidence in that she was hanged, and that's what we need  
6 for the confession that is purported to be Reggett's.  
7 That's why it's important.

8 MR. HUFFMAN: He didn't introduce any evidence  
9 that to -- that she died any other way, did he?

10 MR. REVERCOMB: No. He attacked the Troopers for  
11 leaving her.

12 THE COURT: Let me interrupt for a second and  
13 tell you what my thinking is. If you're going to ask for  
14 a defense verdict -- and the fact that somebody would  
15 intentionally kill a child like that -- it's a fact of  
16 life to be considered by this jury.

17 There isn't any question of that. And the  
18 vividness of that child's death is simply that you don't  
19 have any problems getting by me in terms of the probative  
20 value, and my concern is that there is an oversell point,  
21 and in order to go beyond a photograph or two to do that,  
22 you need to show me something that is particularly  
23 relevant to the conviction of Mr. Moss. That's all.

24 Do you all contest the strangulation?

1 MR. BICKLEY: Your Honor, I think I should have  
2 put everyone on notice that I intend to file a motion  
3 -- or to make a motion in limine that the State do not  
4 argue mercy. My reason for this is, it's a mandatory  
5 instruction by the Court, and it makes the jury jump to  
6 guilty before they leave the jury box to decide mercy.  
7 It places the defense in an awkward position because if  
8 I argue mercy, it presupposes that my client is guilty.  
9 I can't argue in the alternative. I'm not that  
10 persuasive.

11 THE COURT: I have checked this out at a couple  
12 of conferences. One Judge agreed with me, one did not,  
13 and one said that it was a mandatory instruction. If it  
14 was optional, it would be a different matter, but it's  
15 a mandatory instruction the Court must give. And it's  
16 always argued in rebuttal.

17 It's the last thing to the box, and it's always  
18 a good swan song they can make. It's a litany. They'll  
19 sound better than Martin Luther King. Repeat those,  
20 you'll never smell a rose, and so forth and so on. The  
21 defense could never argue mercy because it makes a jury  
22 say, "Well, he's guilty; now they're looking for  
23 leniency." It presupposes that, and I have been in an  
24 awkward position. And I think that if I argue mercy in

1 my argument, then I'm fair game. And I think the State  
2 has every right to wait for rebuttal to argue mercy.

3 They can argue mercy at any time in the closing.  
4 It puts the defense in an awful position.

5 THE COURT: If they don't argue it in that first  
6 argument, then they waive the ability to argue it  
7 further. So, what are you suggesting?

8 MR. BICKLEY: That they argue guilty or innocent.

9 THE COURT: How do you determine the question of  
10 mercy or no mercy?

11 MR. BICKLEY: Of course, you're going to read the  
12 instructions to them. One of the things that they are  
13 to consider is mercy.

14 But for them to argue to not give this person  
15 mercy -- I can't counter that, because that presupposes  
16 that he is guilty.

17 THE COURT: Well, we'll get to that. We still  
18 have to deal with this immediate issue.

19 MS. LUSK: Do you want to hear our argument on  
20 that?

21 THE COURT: No, not right now.

22 MS. LUSK: We will have one.

23 THE COURT: Yeah. We're at least a couple of  
24 days from arguing.

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1 MS. LUSK: Judge, there are two -- okay, Judge,  
2 we're making this 74 and 75. There are some difference  
3 in the photographs, but I think that we can probably  
4 withdraw 75 and use only 74.

5 THE COURT: Okay. You want to break out the set?  
6 We might as well identify them by number.

7 MS. LUSK: Is there an objection to 74 since  
8 we've withdrawn 75?

9 THE COURT: Yeah, they objected to 74 on the  
10 basis that either one of the shots showed the same thing.

11 MS. LUSK: Well, okay. It really doesn't,  
12 though, your Honor. The mottling is certainly better  
13 depicted in the photograph 74; the tongue-drying and  
14 extending is better depicted in that; those are  
15 depictions of a hanging.

16 You can see the blood on the pillow better;  
17 that's Vanessa's blood on that pillow.

18 THE COURT: The blood is of the same type?

19 MS. LUSK: Uh-huh. She is the only one who had  
20 blood of that type.

21 THE COURT: Do you want them all?

22 MS. LUSK: No, I think we can pare down some of  
23 these that I took out of this stack over here. We  
24 certainly don't need both of these if we're not going

1 about repeating the slides.

2 Like I said, some of them were repetitive because  
3 I was going to try to use them on a slide carousel.

4 THE COURT: If you've got one picture to show to  
5 sixteen different witnesses, that's not a problem.

6 MS. LUSK: Let's withdraw 72. This one shows the  
7 chest of drawers ransacking, with the change purse on it.

8 THE COURT: And the furniture shots?

9 MS. LUSK: This one shows the cord coming under  
10 the chair.

11 That one's a better picture of the change purse.  
12 I don't think we need this one.

13 MS. BECKETT: There's one more with a view from  
14 the living room to the bed room that you've got a view  
15 of the cord.

16 THE COURT: I think they got around to putting  
17 this photograph in. I honestly think this stuff here is  
18 all fluff in terms of what kind of inflammatory impact  
19 this is going to have, and I think they have got a basis  
20 for that, and I'll let them use the basis for that.

21 What I'm referring to is 74. I'll let the State  
22 use 74, 71 and 73, and note the defendant's objection as  
23 to those photographs being redundant and unduly  
24 prejudicial and inflammatory.

1 Will that do it?

2 MR. BICKLEY: That'll do it.

3 MS. LUSK: We would withdraw 76.

4 MR. BICKLEY: Are those other pictures planned on  
5 being introduced?

6 MS. LUSK: We're not finished with the big ones,  
7 yet.

8 THE COURT: Let's go down to the black and  
9 whites. Read the numbers off first.

10 MS. LUSK: These are 28, forget 11, 23, we'll  
11 take out 26, and we'll take out 36. Take out 60, take  
12 out 62, take out 80 -- it's after the bodies have been  
13 removed.

14 THE COURT: By the Police?

15 MS. LUSK: Yeah. Take out 28 and 23.

16 THE COURT: The next series will be 163, 164,  
17 165, and 166, which show -- incidentally, what do these  
18 show?

19 MS. LUSK: Judge, these are Polaroid photographs  
20 which Paul Reggett will say were taken with his handle  
21 camera.

22 MR. BICKLEY: Do we need all of the photographs  
23 to say that he took them with his handle camera? Do we  
24 need all of the photographs to verify that he took them?



1 MS. LUSK: It's just a small group. He took  
2 albums of them.

3 THE COURT: How does this become an issue?

4 MS. LUSK: The handle camera was recovered from  
5 John Moss's home in Cleveland.

6 MR. BICKLEY: A handle camera.

7 MS. LUSK: And two more pieces of evidence that  
8 he told the Police about during his confession, that they  
9 did not have previous knowledge of.

10 THE COURT: That Moss told the Police of?

11 MS. LUSK: Right. That they did not have  
12 previous knowledge of, that they took from his house.

13 THE COURT: And there is a dispute about whether

14 ---

15 MS. LUSK: There is no independent evidence,  
16 though, other than Reggett's statement that he even owned  
17 a Polaroid camera.

18 THE COURT: The photographs are innocuous enough  
19 and the fact that there are three or four versus two or  
20 one doesn't make any difference; does it?

21 MR. HUFFMAN: It depends on what they are.

22 THE COURT: They are pictures of statues.

23 MS. LUSK: He cropped them to fit in his photo  
24 album. The other pictures are not cropped.

1 THE COURT: With the same camera?

2 MS. LUSK: Yes.

3 MR. HUFFMAN: Is that the Christmas photo?

4 MS. LUSK: No.

5 THE COURT: Okay. Now, with respect to the four  
6 that I've just identified, do you have any problems with  
7 those?

8 MR. BICKLEY: No, I don't have a serious problem  
9 with those.

10 THE COURT: If you can establish a foundation, I  
11 see no problem with those.

12 Now, the next set of four are 159, 160, 161 and  
13 162. Again, they are photographs used to show that he  
14 had a Zinger camera. It is a handle camera.

15 MR. HUFFMAN: I refer ---

16 MS. LUSK: There is a Polaroid photograph, Judge,  
17 to tell you what they are talking about. It's depicted  
18 in one of these pictures. It's Santa with one of the  
19 kids sitting in his lap. I have that in one of the  
20 groups that I showed Tim the other day and told him that  
21 I was going to use them, but I told him that I wasn't  
22 going to use the picture of the kid sitting on Santa's  
23 lap.

24 THE COURT: I take it none of these photographs

1       were admitted in the last trial?

2               MS. LUSK:   None of them.

3               MR. BICKLEY:   We don't see the use of these  
4       pictures to show that he had a Polaroid camera. We think  
5       the purpose of these pictures is entirely different.  
6       These pictures are for the purpose of visiting some type  
7       of emotions by virtue of the fact that the pictures show  
8       them live.

9               THE COURT:   In a recent case in the last year and  
10      a half, about putting in pictures of a live person in a  
11      wrongful death case or something like that, they put on  
12      pictures of a kid and the Supreme Court found some  
13      problems with that. Have you read that?

14              MS. LUSK:   No.

15              MR. REVERCOMB:   Your Honor, the significance of  
16      these were taken five weeks before the murder took place  
17      which shows that Paul Reggett had the camera.

18              MR. BICKLEY:   Put his picture in to show that  
19      five weeks before, he had the camera. The others are  
20      just intended to inflame the jury.

21              MS. LUSK:   There is a different reason for one of  
22      these at least.

23              MR. BICKLEY:   Tell me what it is, if you can?

24              MR. REVERCOMB:   We can't tell you.

1 MS. LUSK: We'll have to tip our hand.

2 THE COURT: I'm not going to let you have the  
3 ones -- except the one of him. I think there are  
4 important problems with that. If you've got some other  
5 important points you want to bring on, do.

6 MS. LUSK: Judge, we don't have any problem with  
7 that. We could even withdraw the two that Bickley's got.  
8 Which two are those, Nelson? What's the number on the  
9 back?

10 MR. BICKLEY: 160 and 161.

11 MS. LUSK: The other photograph of Vanessa, we  
12 have a reason for offering it.

13 THE COURT: Raise it at the time, then.

14 MS. LUSK: We'll raise it at the time.

15 MS. BECKETT: So, 159 is the one you want to keep  
16 in?

17 MS. LUSK: 159 is the one I'm concerned with.  
18 161 and 162 are the ones that I'm going to withdraw.

19 THE COURT: And you're going to put in 161 and  
20 162, which is Reggett?

21 MS. LUSK: 162 is Reggett.

22 THE COURT: And that's the one that has the date  
23 marked on it?

24 MS. LUSK: It does. And 159 -- we're going to

1 hold on that one.

2 THE COURT: If you want to tell me about it, what  
3 it's about at the time, we'll take it up then.

4 MS. LUSK: All right.

5 THE COURT: Do you want all of these?

6 MS. LUSK: No.

7 MR. BICKLEY: Why do we have to have those?  
8 You've got those pictures of her dead already.

9 MS. LUSK: There is only one photograph of  
10 Bernadette. It shows the high end mark, which is very  
11 probative.

12 THE COURT: What's a high end mark?

13 MS. LUSK: The end of the noose. See, it comes  
14 up to her ear and shows that she was hung, rather than  
15 these marks which show that there is a horizontal  
16 ligature, which shows that she was strangled both ways.  
17 You can see it here, the horizontal ligature mark and the  
18 higher mark, which was the hanging.

19 THE COURT: The issue of hanging isn't disputed  
20 in this case; is it?

21 MS. LUSK: It was the last time, Judge.

22 THE COURT: If they put in a dispute on that,  
23 they'll get their photograph. They'll lay a foundation  
24 for the photograph.

1 MR. BICKLEY: Dispute what?

2 MS. LUSK: That Bernadette was hanged.

3 MR. BICKLEY: I'm not disputing the issue of her  
4 being hanged.

5 THE COURT: There is, in fact, a technical  
6 difference.

7 MR. BICKLEY: I'm not disputing that.

8 MS. LUSK: We can't always perceive what you're  
9 going to do and not going to do, Mr. Bickley.

10 THE COURT: Now, see, those are the kinds of  
11 photographs that -- if that's got anything valuable in  
12 it ---

13 MS. LUSK: Well, this is a close-up, but you can  
14 really see it better in the ones that aren't as close.

15 THE COURT: What?

16 MS. LUSK: Her neck, the ligature marks.

17 THE COURT: Is that what that is? Because she  
18 was strangled?

19 MS. LUSK: Right.

20 THE COURT: Is that disputed issue, that she was  
21 strangled?

22 MR. BICKLEY: We don't dispute that she was  
23 strangled -- with a cord, you mean?

24 MS. LUSK: On the other side of her neck.

1 THE COURT: Is Sopher going to say that she died  
2 from that strangulation?

3 MS. LUSK: Yes.

4 MR. BICKLEY: From the cord?

5 MS. LUSK: Yes, yes. You can see what he calls  
6 the darkening of the face, as compared to the rest of the  
7 body. And I'm looking here at number 95, which was  
8 admitted the last time, but this is a symptom of  
9 suffocation, the darkening of the face.

10 And I want to note, too, that these autopsy  
11 photographs are in black and white.

12 MR. REVERCOMB: And it's before she's opened up  
13 or anything.

14 MS. LUSK: They're pre-autopsy.

15 THE COURT: Again, if that is to show that she  
16 was strangled, strangulated, that is not disputed -- or  
17 is it disputed?

18 MR. BICKLEY: No.

19 THE COURT: Is there any dispute about -- I have  
20 no idea what the nuances of the State's case are, in  
21 order to -- obviously, you've got the confession, but  
22 you've also got to show evidence more consistent with the  
23 defendant's conduct and statements, than it is with the  
24 husband's.

1           So, if there is some issues here that make that  
2           distinction, I think it's valuable. But, are there in  
3           any of these photographs?

4           MR. BICKLEY: No.

5           THE COURT: Sopher is going to identify that as  
6           a wound from a cord, okay? What did Reggettz say?

7           MR. REVERCOMB: Reggettz doesn't remember hitting  
8           her.

9           MR. BICKLEY: He says he swung at her. He  
10          doesn't remember if she went down. So, it was all the  
11          implication that he hit her.

12          THE COURT: Did Moss say that he hit her?

13          MR. REVERCOMB: Yes, he did.

14          MR. BICKLEY: Both said they hit her. Reggettz  
15          doesn't come right out and say he hit her, but he  
16          implicated that he swung the gun and hit her and she went  
17          down. Then he carried her to another room.

18          MR. REVERCOMB: I think Moss's confession talks  
19          about the pistol breaking, and throwing it away later  
20          that morning.

21          THE COURT: Is that what the pieces of grip are?

22          MR. REVERCOMB: A piece of the butt, too, the  
23          metal butt.

24          THE COURT: That's what I mean. Well, is any of



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1 this more consistent with the defendant's guilt than  
2 Reggett's?

3 MR. BICKLEY: The pictures are not.

4 MS. LUSK: I think particularly the pattern of  
5 injury. I mean, this is not a photograph that even shows  
6 Vanessa's face.

7 THE COURT: I understand that.

8 MS. LUSK: Number 130.

9 MR. REVERCOMB: I think we need that picture.

10 THE COURT: I don't have any problem with that  
11 one at all.

12 Defense, do you all want to note any objections?

13 MR. BICKLEY: No. Reggett hit her. We don't  
14 have any objection to that one.

15 THE COURT: What else do you have?

16 MR. BICKLEY: Have we shown 98 yet?

17 MR. REVERCOMB: Again, I know what your concern  
18 is, Judge, but the State is entitled to put on its case.

19 THE COURT: I understand that, and I'm not trying  
20 to hamstring you.

21 MR. REVERCOMB: I mean, I can't argue what their  
22 defense is going to be in my opening statements.

23 THE COURT: Oh, and if they do something that  
24 paves the way for the admission of these things -- at

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1 this point, though, in your case in chief, basically what  
2 you've got to do is, you've got to anticipate the alibi  
3 defense and you've got to anticipate that you are going  
4 to get hit with the fact that Paul Reggettz knew the  
5 defendant. Okay?

6 Now, I have no idea what the nuances of that  
7 proof are going to be. One of the things that occurs to  
8 me is that Mr. Reggettz -- I don't know how big Mr. Moss  
9 was. Mr. Reggettz, as I recall, was a thin, spindly sort  
10 of guy. There is a great use of force. That's just  
11 something that occurs to me. I don't know if any of it  
12 applies to this or not, but what I'm saying is that it  
13 just seems to me that to make this probative, you've got  
14 to make probative of the contested issues in the case,  
15 because I think the Court would have a problem with that  
16 otherwise.

17 Let me see if I can't introduce a fact that I  
18 think is what is going to count, although the Supreme  
19 Court has never articulated this rule, that you can get  
20 off on your photograph if it is an essential element.  
21 You can get the worst possible photograph.

22 Now, if it's very, very relevant, you can't get  
23 that photograph, but you can get one that's semi-  
24 gruesome, but it's relative to what you're trying to

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1 prove, because what I think my job is, is to make sure  
2 that the jury doesn't get inflamed to the point where  
3 they put aside their responsibility to decide the  
4 defendant's guilt based upon objective evidence. Okay?

5 And you and I see autopsy pictures a lot. But  
6 the fact of the matter is, that if I were to take these  
7 home to my wife, she wouldn't sleep that night.

8 Now, we don't have any idea what the sensitivity  
9 of these jurors are, but there is going to be some jurors  
10 that are flat shocked out of their shoes by these  
11 photographs. Use the ones you have to have. I'm not  
12 trying to curtail your proof in your case at all.

13 MS. LUSK: Maybe Steve and I can discuss these  
14 autopsy photographs later.

15 THE COURT: You're not going to put them on  
16 today, anyway, are you?

17 MS. LUSK: No. But I do think that there are  
18 some probative things that, you know, this one in  
19 particular, with that hanging -- you can't describe that.  
20 And to see in your mind what a noose furrow with a high  
21 end mark is ---

22 MR. BICKLEY: There is no one denying that she  
23 was strangled. She was hung. It's a gruesome picture.

24 MS. LUSK: It is gruesome.

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1 MR. BICKLEY: The first time I saw it, I was  
2 repulsed.

3 THE COURT: I don't think it's gruesome. What I  
4 think it is, is unsettling; and I don't think that there  
5 is a lot of difference, frankly, because what you're  
6 looking at is what the impact on the average guy on the  
7 street or the average woman on the street is going to be.

8 Go ahead. You all talk about it and then we'll  
9 get back to it.

10 MR. REVERCOMB: We do want this, number 130.

11 THE COURT: Okay. Now, these are all withdrawn.  
12 This stack -- you want to take those? You'll probably  
13 want to hang on to them, because they may come up at some  
14 point in the future.

15 MS. LUSK: We've also got another stack  
16 downstairs that we've marked. I don't know if they used  
17 them. I haven't really gone through and checked them all  
18 or not, to see if we used them the last time or not. But  
19 there are additional photographs, if the defense wants  
20 to see them.

21 THE COURT: Have you all had a chance to look  
22 through them in case there are any photographs that you  
23 might find helpful to your case?

24 Why don't you take a look at them?

1 MR. BICKLEY: We'll do that.

2 MS. LUSK: I'll tell you, there are no additional  
3 photographs -- I know you've looked at all of the  
4 exhibits and stuff that were downstairs in the Clerk's  
5 office. They were all marked before. They were not all  
6 admitted, but they were all marked. So, if you would  
7 look through them, and I know you have because you told  
8 me you have, but if you've looked through the ones in  
9 the Clerk's office, you've seen them all. But we have  
10 them in the larger version, if you want to see them.

11 THE COURT: Let's take then minutes, then we'll  
12 go do openings.

13

14 WHEREUPON, the Court stood in a recess in the  
15 hearing of this case.

16

17 (Back on the Record)

18

19 WHEREUPON, the jury was sworn in.

20

21 THE COURT: Let me just start with a couple of  
22 observations. I suspect that those of you who have tried  
23 a case have been admonished by the Judges who have tried  
24 those cases not to discuss the case among yourselves or

1 with other persons during the trial. If you've heard  
2 that a lot of times, I suspect that you're probably at  
3 the point whether you think, "Why do they keep telling  
4 me that?"

5 Well, a Judge wouldn't tell you that again and  
6 again if it wasn't important. I'd just like to take a  
7 minute to tell you why.

8 The reason we ask you not to discuss this case  
9 among yourselves is that when you talk about the case  
10 among yourselves, you are deliberating, and that  
11 shouldn't occur until, first, all of the evidence is in;  
12 second, you have heard my instructions on the law; and  
13 third, you have heard the arguments of counsel. So, if  
14 a couple of you go off to lunch and you discuss the last  
15 witness who was on and what you thought, or that a  
16 witness was believable or not, and that sort of thing,  
17 you are actually deliberating before it's time.

18 I ask you not to discuss the case with other  
19 people for two reasons. The biggest reason is because,  
20 as I told each and every one of you in individual voir  
21 dire, the only evidence that should come to your  
22 attention that you consider in this case is that which  
23 comes from the witnesses and the exhibits which are  
24 received in evidence in this Courtroom, with all of the

1 parties present. So, if somebody should try to tell you  
2 something about this case away from this Courtroom, they  
3 are acting improperly. Don't let them do that. And tell  
4 me, as I told you, if that occurs.

5 The other reason we ask you not to discuss this  
6 case with other people is, when you go home and your  
7 spouse or friends or relatives want to ask you what you  
8 are doing, what you are doing may be of some interest to  
9 those people, and they'll say, "Well, what happened  
10 today?" Just tell them, other than today, you can tell  
11 them you just sat around all day. But when the evidence  
12 starts coming in, you'll have some things that might be  
13 of interest to them. If you discuss that evidence with  
14 them, they would be in a position to be almost like  
15 another juror, because they could react to what you say.  
16 You could say, "He said what." And they could say,  
17 "Well, I don't believe it." So, then you've got somebody  
18 who is not a juror being a part of the process.

19 What you really need to do is to hold all of that  
20 stuff until we're all finished with this case, and you've  
21 got a verdict, then you can elect to discuss it with your  
22 friends and relatives and that sort of thing. You are  
23 free to do that.

24 So that everybody is assured of a fair and just

1 trial in this case, I ask you not to violate those two  
2 rules.

3 There are a couple of other things that I would  
4 specifically ask you to remember. Don't take any notes  
5 during the course of the trial. This is not a trial in  
6 which it would be appropriate for you to take notes.

7 Second, don't conduct any experiment or engage in  
8 any independent investigation on your own in an attempt  
9 to discover any facts in this case.

10 Again, the facts that you will need to know will  
11 all come to you here in the presence of the State and of  
12 the defendant and me.

13 During the course of this trial, it will not be  
14 uncommon for you to hear one side or the other object to  
15 a question or object to an answer that was given. And  
16 as a Judge, it is my responsibility to rule when those  
17 objections are made. When I rule, I hope you understand  
18 that I am not indicating that I favor one side or the  
19 other in this case, because I don't. I'm ruling because  
20 I understand that the Rules of Evidence govern certain  
21 questions in certain ways, and I'm just following what  
22 my understanding of the law is.

23 Also, when I exclude certain pieces of evidence,  
24 I'm not trying to keep anything from you that's important



1 in the case, because I would not do that. From time to  
2 time, it will be necessary that we take up certain  
3 matters out of your presence. More often than not, that  
4 happens, as you've already seen, in the process up here.  
5 Occasionally, we may ask you to be excused from the  
6 Courtroom and we'll take something up in the Courtroom,  
7 or I might excuse us and we'll all go off in my office  
8 or someplace else to discuss the matter. When we're  
9 doing that, we're not trying to keep you -- anything  
10 important from you, but we're simply following the law  
11 that requires us, from time to time, to take up certain  
12 matters out of your presence.

13 Now, at this point, counsel will give their  
14 opening statements. Their opening statements in this  
15 case, as are all of these statements of counsel, are not  
16 evidence. The evidence will be that which comes to you  
17 from witnesses who have been sworn and take the witness  
18 stand and give testimony. That does not mean, however,  
19 that the opening statements of counsel are unimportant.  
20 They are, in fact, a very important part of the case.  
21 So, treat these opening statements of the attorneys --  
22 these attorneys will try to give you some advance notice  
23 of what you might expect, so that if the evidence does  
24 come in, it will fall into place. It will take form

1 according to the way the attorneys have attempted to  
2 develop that evidence. And I've told you that they would  
3 attempt to develop that evidence. So, that is why I'm  
4 going to turn the case over to counsel for the making of  
5 opening statements.

6

7

#### OPENING STATEMENTS

8

9

(For the State)

10

11 By Mr. Revercomb:

12

13 May it please the Court. Ladies and gentlemen of  
14 the jury, on December 13, 1979, this man, the defendant,  
15 entered the home of the Paul Reggett family down in St.  
16 Albans. Paul Reggett was at work. His wife, Vanessa,  
17 and two children, Paul Eric and Bernadette Lynn, were in  
18 the back bedroom of that house that day.

19 This is perhaps the most horrifying crime that  
20 was ever committed in this State. John Moss brutally  
21 murdered Vanessa Reggett, Paul Eric Reggett, and  
22 Bernadette Reggett. He did it all for a .22 rifle and  
23 a .22 pistol, a camera, a set of flatware, and a few  
24 dollars.

1           As introduced before, my name is Steve Revercomb  
2           and I'm an Assistant Prosecuting Attorney, and along with  
3           Ms. Lusk, we'll be representing the State of West  
4           Virginia and the people of this County in this case.  
5           I'll also introduce to you Mr. Nelson Bickley, Tim  
6           Huffman, and Kathy Beckett, the defense counsel for the  
7           defendant, John Moss, who is also here present.

8           Now, you jurors have been summoned here for an  
9           important duty. I'm here to represent the good people  
10          of this County, the citizens of this County, and you are  
11          to determine whether John Moss is guilty or innocent of  
12          three counts of murder in the first degree. Your duty  
13          is to apply the facts. You are the jurors and judges of  
14          the facts that come from the witness stand, and to apply  
15          the law that Judge MacQueen will tell you about. He'll  
16          instruct you on the law. But you are the judges of the  
17          law and you are sworn to follow that law. You jurors are  
18          the judges of the facts.

19          Now, the charges that come to you through the  
20          Kanawha County Grand Jury -- the Grand Jury meets and  
21          they decide whether to indict people.

22          I'll tell you right up front that the fact that  
23          they have indicted John Moss, or anyone else for that  
24          matter, is not to be considered evidence of their guilt.

1 I am telling you that now, and I'm sure Mr. Bickley and  
2 the other defense counsel will tell you that. I'm sure  
3 the Judge will read to you an instruction on that point  
4 of law. The fact that one is indicted is not to be  
5 considered by you all as evidence of guilt. An  
6 indictment is a formal instrument setting a person for  
7 trial by a jury of his peers.

8 At this time, I'll read the Indictment, so please  
9 bear with me.

10 "The State of West Virginia, Kanawha County, in  
11 the Circuit Court of the aforesaid County, the Grand Jury  
12 of West Virginia, in and for the County of Kanawha, now  
13 attending said Court, upon their oaths present that John  
14 Moss, Jr., also known as John Moss, III, on the blank day  
15 of December, 1979, and in the said County of Kanawha, did  
16 feloniously, maliciously, willfully, deliberately,  
17 premeditatedly and unlawfully slay, kill and murder one  
18 Paul Eric Reggett in violation of Chapter 61, Article  
19 2, Section 1 of the West Virginia Code, 1931, as amended,  
20 against the peace and dignity of the State.

21 "Count 2: The Grand Jurors aforesaid, upon their  
22 oaths aforesaid, further present that John Moss, Jr.,  
23 also known as John Moss, III, on the blank day of  
24 December, 1979, and prior to the date of the filing of

1 this Indictment in the said County of Kanawha, did  
2 feloniously, maliciously, willfully, deliberately,  
3 premeditatedly and unlawfully slay, kill and murder one  
4 Bernadette Reggett, in violation of Chapter 61, Article  
5 2, Section 1 of the West Virginia Code, 1931, as amended,  
6 against the peace and dignity of the State.

7 "Count 3: The Grand Jurors aforesaid, upon their  
8 oaths aforesaid, further present that John Moss, Jr.,  
9 also known as John Moss, III, on the blank day of  
10 December, 1979, and prior to the date of the filing of  
11 this Indictment in the said County of Kanawha, did  
12 feloniously, maliciously, willfully, deliberately,  
13 premeditatedly and unlawfully slay, kill and murder one  
14 Vanessa Gail Reggett, in violation of Chapter 61,  
15 Article 2, Section 1 of the West Virginia Code, 1931, as  
16 amended, against the peace and dignity of the State.

17 "Found during the September Term of Court.

18 "Trooper Terry Williams of the West Virginia  
19 Department of Public Safety at South Charleston, West  
20 Virginia, who came before the Court to give evidence  
21 before that body, signed James E. Roark, Prosecuting  
22 Attorney."

23 Now, the burden of proof in a criminal case,  
24 you've already been told about this, and the burden of

1 proof is on the State in every criminal case. We accept  
2 our burden. The burden of proof is on the State to prove  
3 each and every element of a crime, beyond a reasonable  
4 doubt. The burden is one of reasonable doubt. The  
5 burden is not one of all doubt. We don't have to prove  
6 this case against this man against all doubt or beyond  
7 all possible doubt. We have to prove his guilt beyond  
8 a reasonable doubt, and a reasonable doubt is one based  
9 upon reason.

10 I ask you to keep in mind, as you listen to the  
11 evidence, what the word reasonable means because the only  
12 tools you have to determine what the truth is in this  
13 case is your common sense, your life experiences, and  
14 your sense of what is reasonable and what is not  
15 reasonable.

16 You have also been told, I believe, that briefly,  
17 there will be some circumstantial evidence in this case.  
18 And what circumstantial evidence is, it's one fact or one  
19 set of facts, or you can infer another set of facts, for  
20 instance I believe that Judge MacQueen used the example,  
21 if you are in the Jury Room looking out the window, you  
22 can see it raining. You can see the dark clouds come  
23 rolling in and puddles forming on the ground. That is  
24 direct evidence. You can see it raining.

1           However, if you've been in this Courtroom for two  
2 house and it was sunny when you came in here and someone  
3 comes to the door and comes in with a raincoat on and an  
4 umbrella with water dripping off of it, you can infer  
5 that it's raining outside. And that's a reasonable  
6 inference. That is circumstantial evidence.

7           But I would also ask you to pay attention in this  
8 case. Pay attention, because this is a very serious  
9 charge, the most serious charge that a jury can decide.  
10 This is not TV, ladies and gentlemen, this is real. What  
11 happened on December 13, 1979 is real. Remember that.  
12 A four year old girl is dead, a seven year old boy is  
13 dead, and their twenty-six year old mother is dead. I  
14 ask you to pay attention, because it's not like the case  
15 will unfold. We may call witnesses out of turn. There  
16 are bits and pieces of evidence that will arise.

17           The Judge has said that you're not allowed to  
18 take notes, so please pay attention to what is said.  
19 Listen to the testimony, whether you believe it or not,  
20 or how much of it you believe.

21           Some of the parts of this trial will be rather  
22 tedious; some exhibits and the photographs, certain  
23 witnesses will take maybe a whole day. Certain witnesses  
24 will be short. You will get tired, like everyone else

1 will, but I still ask you to please pay attention.

2 On December 13, 1979, Paul Reggett got up at  
3 approximately 1:00 a.m. to go to work. He worked the  
4 night shift at UPS in Rand. He lived in St. Albans, at  
5 7027 Chesapeake Avenue. He worked the shift from 2:30  
6 a.m. until 11:30 a.m. in the morning.

7 At about 1:00 in the morning, he got up, got  
8 dressed, and talked to his wife Vanessa. They had some  
9 coffee together. About a quarter until two, it was time  
10 to leave. He kissed his wife goodbye and left. He went  
11 to work. He worked all morning and got off at 11:30 a.m.  
12 He then went home, shortly after noon, or at about noon.  
13 He was expecting to meet his wife and daughter,  
14 Bernadette, at the intersection of Route 60 and Fourth  
15 Avenue in St. Albans, or near St. Albans. He expected  
16 to meet them there and they were going on together to K-  
17 Mart to look for a watch that he had seen advertised, for  
18 a Christmas present.

19 When he gets to the intersection though, they are  
20 not there. But it has been raining off and on, so he  
21 thinks maybe they are at the house because of the rain.  
22 So, he turns down Fourth Avenue and he goes to the house.  
23 He parks in the driveway between his house and his  
24 landlord's house, Mr. Fortson. He goes to the front door



1 and he knocks, but there is no answer. He walks around  
2 the back and looks at the back door. He goes to it and  
3 realizes that it is not shut all the way. He pushed it  
4 open. Immediately, he sees, some ten feet away from him  
5 -- the door is open to the kitchen, but he could see his  
6 wife's legs sticking out of the doorway between the back  
7 bed room and the TV room which is off the kitchen.

8 He rushes to his wife. She is lying in the  
9 doorway, a cord around her neck, one cord -- two cords  
10 around her neck. One cord extends up through a hold in  
11 the door where a door knob had once been. They didn't  
12 have a door knob on it that day. He also notices some  
13 scissors in her chest.

14 Ladies and gentlemen, his worst nightmare was  
15 just beginning. The nightmare would get worse -- much  
16 worse. He wondered immediately where his little girl  
17 was. He found his little girl hanging on the door  
18 separating the front bed room from the living room. He  
19 took her down from that door.

20 Paul Reggettz found his son, Paul Eric Reggettz,  
21 in the bathtub, face down, hands tightly bound behind  
22 him, with a cord coming up around his neck. All three  
23 were dead, just as surely as his wife was to meet him at  
24 noon on December 13, 1979.

1 Paul then left the house and had someone call the  
2 Police. Fourteen hours later, at approximately 2:30 a.m.  
3 down at the State Police Detachment in South Charleston,  
4 Paul Reggettz confessed to killing them. He gave a very  
5 colorful and very graphic description of what he had  
6 done. He went so far as to say that he had put his  
7 little girl on the door because she liked to swing; he  
8 put his little boy in the bathtub because he liked to  
9 swim.

10 Also, later that morning, on December 14th, he  
11 returned to his home on Chesapeake Avenue, where Law  
12 Enforcement Officers demonstrated how he had murdered his  
13 family. There was only thing left out. Paul Reggettz  
14 didn't kill his family. He didn't kill his wife and  
15 little boy or his little girl. The Police, at that time,  
16 had his confession. They'll tell you that as soon as the  
17 Police arrived that day, he didn't show much remorse.  
18 He wasn't hysterical.

19 You'll hear the time of death, established by the  
20 Medical Examiner. He'll say that the time of death is  
21 in the range, it's not exact, that it could have been  
22 between 12:00 midnight or five, six, or seven in the  
23 morning. Paul will tell you that he didn't leave for  
24 work until a quarter till two. The Police were sure they

1 had the killer.

2 Now, the case begins to unravel soon after that,  
3 because at the scene that day on December 13th, when the  
4 Troopers showed up and the Lab people showed up, the  
5 photographer showed up, a person from the Serology Lab,  
6 a person who is a forensic serologist, showed up along  
7 with a fingerprint man. The serologist, a man by the  
8 name of Fred Zain, the chief forensic serologist for the  
9 State -- he'll tell you that there was a lot of blood at  
10 the scene.

11 Vanessa Reggettz had an injury. We all know how  
12 a head injury is. For example, Fred Zain will tell you  
13 that he took his samples of blood from every blood stain  
14 in that house. He will tell you that he took those  
15 samples from this house, then he went back to the lab  
16 where he analyzed them. Of course, in the meantime, he  
17 had the known blood samples of the victim, the mother.  
18 He got a known blood sample of Paul Reggettz shortly  
19 thereafter.

20 He will tell you that the blood samples that he  
21 took from a drawer in the kitchen and from a flashlight  
22 in the TV room, from a Christmas package, some Christmas  
23 wrapping paper, blood samples from the door between the  
24 living room and the front bed room. He took blood

1 samples from that door, a change purse from the chest of  
2 drawers in the front bed room, a pillow case from the  
3 back bed room, a curtain on the back door, even the  
4 little pajama top that Bernadette reggettz was wearing  
5 when she was murdered.

6 He will tell you that when he took that samples,  
7 he analyzed them in the lab. He found samples of blood  
8 taken from all of these people that I've just listed,  
9 that did not match any member of the Reggettz family.  
10 The blood didn't belong to Vanessa, from the head wound.  
11 It didn't belong to Paul Eric. It didn't belong to  
12 Bernadette. And it didn't belong to Paul Reggettz.

13 So, the Police continued their investigation. On  
14 April 22, 1980, they traveled to Cleveland, Ohio, to take  
15 a blood sample from a young man. During the course of  
16 their investigation, at the time of these murders, this  
17 man was living with his grandfather, some one hundred to  
18 two hundred yards straight down the road from the  
19 Reggettz home. And shortly after the murders, after  
20 about a week, that young man returned to Cleveland. That  
21 young man, ladies and gentlemen, is sitting right here  
22 (Indicating), John Moss, the defendant. His blood was  
23 taken that day in April and brought back to Fred Zain,  
24 the serologist, and his blood was found to match the

1 blood found in the house.

2 Now, we all know about some bloodwork. Everyone  
3 has an ABO type; either O, A, or AB, or B. Trooper Zain  
4 -- or Lieutenant Zain will tell you that the bloodwork  
5 at the time, was broken down scientifically and  
6 forensically, and can be broken down to a number of  
7 samples, to nine genetic markers or enzymes, all  
8 independent of each other, which is important. Some of  
9 the blood samples that were taken from the house were  
10 taken from the curtains on the back door, from  
11 Bernadette's pajama top, from Christmas wrapping paper,  
12 I believe the Christmas package. And those blood samples  
13 were able to be broken down by Fred Zain into those nine  
14 genetic markers. And one at a time -- that blood exactly  
15 matched John Moss's -- the genetic markers, those nine  
16 genetic markers, in the sample of blood.

17 And Fred Zain will further tell you that the  
18 combination of those nine genetic markers found in the  
19 defendant's known blood and on those exhibits, the  
20 exhibits that I just listed, occur in three of every ten  
21 thousand people, point zero three percent of the  
22 population in this State. Three in every ten thousand.  
23 Fred Zain will further tell you that some of the other  
24 samples, the other ones I listed, for lack of sufficient

1 sample or whatever reason, he was able to break it down  
2 into seven of the nine genetic markers. And again, he'll  
3 tell you that those seven genetic markers found on those  
4 exhibits matched right down the line to the defendant's  
5 known blood.

6 Fred Zain will tell you that that combination of  
7 those seven genetic markers occurs in one of every  
8 thousand, twenty-one percent.

9 On October 28, 1980, Trooper Williams and Trooper  
10 Smith, two investigating officers in this case -- they  
11 traveled to Mansfield, Ohio, where they picked up John  
12 Moss to bring him back here to West Virginia. Along the  
13 way, they stopped at the Parkersburg Detachment of the  
14 State Police Detachment. On October 28, 1990, John Moss  
15 confessed to murdering Vanessa Reggett, confessed to  
16 murdering Paul Eric Reggett, and confessed to murdering  
17 Bernadette Reggett. And while his confession was not  
18 as colorful, perhaps, as Paul Reggett, it was more  
19 detailed.

20 There are some important details in his  
21 confession that aren't in Paul Reggett's. One of them  
22 was a camera. John Moss says he stole a camera from the  
23 Reggett household. The Police didn't even know that a  
24 camera had been stolen until John Moss told them about

1 it. He also told them about some flatware and some  
2 dishes -- actually, in his confession he said he stole  
3 some dishes from the residence. He said he murdered the  
4 family; went to the Christmas tree and opened the  
5 packages; and said he took one gift -- it was a set of  
6 dishes -- and he gave it to his best friend's mother for  
7 a Christmas gift. He took it home, rewrapped it, and  
8 gave it away.

9 The State will put on a witness and she'll tell  
10 you that she received the Christmas gift, which was one  
11 set of dishes and one set of flatware. There are a  
12 couple of details that are in John Moss's confession that  
13 were not in Paul Reggett's confession.

14 The defendant confessed twice. He confessed  
15 orally, and you'll hear about that. He also confessed  
16 on tape, and you'll get to hear his confession. In his  
17 confession, one thing he said, is that Vanessa Reggett  
18 cut him with a knife, and you'll hear about that.

19 More importantly, he says in his confession, he  
20 went into the Reggett home that night to steal, commit  
21 burglary. The reason that's important, ladies and  
22 gentlemen, we have in this State what is called felony  
23 murder. It's a rule of law that if a person commits a  
24 murder in the course of committing or attempting to

1 commit either a rape, a robbery, an arson or a burglary,  
2 then that person is automatically guilty of first degree  
3 murder. The State doesn't have to prove that there was  
4 any malice or premeditation or deliberation. The State  
5 has to prove that the underlying offense, in this case  
6 a burglary, was committed. Burglary is the breaking and  
7 entering of a dwelling, or entering without breaking of  
8 a dwelling, with the intent to steal. Along with the  
9 murder, that is a felony.

10 The State's evidence in this case will show that  
11 John Moss entered the Reggett home that night in the  
12 middle of the night with the intent to commit a larceny.  
13 We can prove that by his confession. He had already  
14 stolen two guns, some money, the flatware and the camera.

15 Once again, the felony murder rule is that if  
16 someone kills somebody, murders somebody in the attempt  
17 or in the commission of either rape, robbery, arson or  
18 burglary, they are automatically guilty of first degree  
19 murder.

20 What the jury is to decide is, if you find him  
21 guilty, is whether or not he gets mercy, whether or not  
22 he is entitled to mercy.

23 After the Moss confession, Paul Reggett was let  
24 out of jail and the charges against him were dismissed.



1 That's important because, as I stand before you today and  
2 this week, because John Moss is the defendant, not Paul  
3 Reggettzt. And at the conclusion of this trial, we are  
4 going to ask you to find this man, John Moss, guilty of  
5 murder in the first degree, of Vanessa Reggettzt, guilty  
6 of murder in the first degree of Paul Eric Reggettzt, and  
7 guilty of murder in the first degree of Bernadette  
8 Reggettzt. We are going to ask you -- we want him to  
9 spend the rest of his natural life in the penitentiary.  
10 So, it's very important that you listen. It's important  
11 to John Moss. And it's important to the people of this  
12 County.

13 Thank you.

14

15 (For the Defendant)

16

17 By Mr. Bickley:

18

19 May it please the Court. Ladies and gentlemen of  
20 the jury, the reason why we're here is because there are  
21 two side to this story, but first I'd like to reintroduce  
22 the legal team; Kathy Beckett and Tim Huffman and I'm  
23 Nelson Bickley.

24 It is our distinct privilege to be defending John

1 Moss, our client. We're about to begin the ordeal of  
2 trial for John Moss. And as Steve, Mr. Revercomb,  
3 indicated, he was brought here on a charge of Indictment,  
4 an Indictment where he was not able to go. He was not  
5 able to present his side. He had no lawyers represent  
6 him, no witnesses to testify in his behalf. Someone  
7 presented a set of facts and John Moss was charged with  
8 first degree murder. And Mr. Revercomb has already  
9 indicated that he was charged with an Indictment, that  
10 as of this time, is absolutely useless. It has no value.  
11 He is now represented by counsel, and you are the judges  
12 of the facts. And the Prosecutor and the Prosecutrix are  
13 doing their job.

14 This is just another of a hundred trials that  
15 they may do during the course of a year, but to John  
16 Moss, this trial is most important, for his life hangs  
17 in the balance. And as the facts unfold in this case,  
18 you are going to realize that John Moss, III or Junior,  
19 is innocent. And Paul Reggett, who is going to testify  
20 from that stand, is guilty of murdering his family.

21 Now, Mr. Revercomb gave you the story as he would  
22 like for it to be presented. The facts are there, but  
23 the details are not.

24 When Paul Reggett confessed, he confessed in

1 intricate detail -- intricate detail that I cannot  
2 imagine anyone forcing him to do. Now, they will make  
3 much of the fact that he was up for twenty hours, but  
4 forgetting that his timeclock was not like ours. He went  
5 to work at 2:00 o'clock, and he worked all day, and you  
6 will find from the witness stand that he is used to two  
7 or three hours of sleep.

8 But, of no mind, you will find that he will  
9 testify that he wanted his wife killed. You will find  
10 that what he testified to was that he was a member of a  
11 Satan group. He said he wasn't a regular member, but  
12 just liked to hang around with the guys. He didn't have  
13 a motorcycle, at one time, then he had one.

14 You will find that Paul Reggettz will testify  
15 that he was tight with his money. And let me tell you  
16 about this Paul Reggettz. He lived in a motel for about  
17 seven motel, the Gene's Motel, owned by Mr. Moss's uncle.  
18 One room. Their refrigerator was a beer cooler. With  
19 two kids and his wife.

20 The Fortson's allowed them to rent the home where  
21 his family was murdered. They had no furniture. The  
22 family that allowed them to rent the home gave them a  
23 refrigerator. He would not help his wife move it to the  
24 house. They had to move them there. The furniture --

1 the neighbors came to give. He was working at UPS, and  
2 I assume, making better than five to six dollars an hour.

3 Mr. Reggettz had a phobia about death. He owned  
4 a car, a blue Honda. He was making payments on it every  
5 week to get over making payments on the car, while  
6 denying his family. You will see that he will admit that  
7 he was penny-pinching.

8 On the night of the murder, in his confession, he  
9 testified that the kids were running around. He was  
10 irritated and he got into an argument with his wife. She  
11 went in the bed room and got a pistol. He struggled with  
12 her, the gun goes off, he slashed at something -- he  
13 didn't know whether he hit her or not, but she fell.  
14 Then he put a cord around her neck and pulled it tight  
15 until she quit moving.

16 His son ran by and he grabbed his son and put his  
17 knees in his son's back and tied him, just as Mr.  
18 Revercomb illustrated, and put him in a tub. His  
19 daughter -- he hung on a door.

20 Then Mr. Reggettz picked up some scissors and  
21 comes in and kneels down and punches, not stabs, but  
22 pushes them into his wife's chest.

23 Ladies and gentlemen of the jury, he is  
24 confessing this. The State is not asking for this.

1 Before he goes off to work, he takes his daughter down  
2 and puts her on the bed. Before he goes to work that  
3 night, he takes his son out of the tub and puts him on  
4 the bed. When they see the scene of the crime, these two  
5 kids are on the bed. Who told them that the son was in  
6 the tub? They might have known from the wet spot, but  
7 the Police did not know those facts. They did not know  
8 these facts. He said he tore a sheet down and put the  
9 flatware around to make it look like a robbery.

10 How can you make me confess that? How can you  
11 make anybody confess? I don't care how long they've been  
12 up. I don't care how long.

13 Listen to Paul Reggett, the Satan lover. The  
14 man who is tight with a penny, who wanted his wife out  
15 of the way, who was a burden and too much responsibility.  
16 He's a far different person that you and I know. I don't  
17 believe that anyone could force me to testify in such  
18 intricate, colorful detail.

19 Mr. Reggett later came back the next day with  
20 the Police entourage and demonstrated in detail what he  
21 did the night before. He demonstrated how he killed his  
22 wife, how he killed his children, showed them how he  
23 stabbed her. Is that forcing something? I can see him  
24 saying, "I'm guilty and I'm sorry and I don't know why

1 I did it." But going through such an elaborate  
2 confession, it boggles the mind.

3 Let's move to October 28th. Two State Troopers  
4 go up to get John Moss. They put John Moss in a sedan,  
5 one State Trooper -- they handcuffed him to the back of  
6 the front headrest of the front seat. The other State  
7 Trooper crawled in the back with John Moss.

8 Now, why did they do that? They couldn't talk,  
9 the windows were down? Why would you suspect that he  
10 crawls into the back seat with John Moss -- so he could  
11 hear him better? Huh? And for three hours, he was back  
12 there talking to John Moss. For three hours he was back  
13 there softening John Moss up for Parkersburg. The  
14 electronic confession of this man for over two and a half  
15 hours, on twenty-six minutes of tape. What happened all  
16 this time? In his oral confession, he took twice as  
17 long.

18 Now, let me tell you something else, you see at  
19 one them there was a theory that Paul Reggett and John  
20 Moss was in a conspiracy to do this deed. And, you'll  
21 notice in John Moss's confession, that he had never heard  
22 Paul Reggett's confession, he didn't even know about it.  
23 And John Moss's confession is not, as Mr. Revercomb  
24 indicated, as colorful. What he meant was that it was

1 not in as minute detail as Reggett's, but some of the  
2 same things come up, but every now and then John would  
3 mess up. He would say he stabbed her with a knife, when  
4 it was scissors. That's what it was, scissors. But here  
5 is the kicker.

6 In John Moss's confession, ladies and gentlemen,  
7 he said the Trooper asked him about was the Honda, the  
8 blue Honda that Reggett owned, did he see it? And John  
9 is supposedly to have said "Yes, it was in front of the  
10 Fortson home." They were trying to make the conspiracy  
11 work.

12 The State is trying to get you to do what the  
13 Grand Jury refused to do. They submitted this bloodwork  
14 analysis and they refused to indict him. They indicted  
15 Paul Reggett.

16 MS. LUSK: Your Honor, we would object to that  
17 characterization.

18

19 WHEREUPON, a bench conference was held where the  
20 following transpired:

21

22 MR. BICKLEY: Your Honor, he was an unindicted  
23 co-conspirator.

24 MS. LUSK: He was not.

1 MR. BICKLEY: He was named in the indictment.

2 MS. LUSK: He was named in the indictment. It  
3 was the Reggettz indictment. It was never presented  
4 against him, Judge, because he was 17 years old. We  
5 didn't try to present the case to the Grand Jury because  
6 he was a minor. We had to transfer him first. And  
7 Nelson is up there arguing that the Grand Jury refused  
8 to indict Moss in 1980. That is a flat lie.

9 THE COURT: Do you have something else, some  
10 other proof?

11 MR. BICKLEY: He was named in the indictment, and  
12 I just assumed they refused to indict him.

13 THE COURT: I'll sustain the objection.

14 MR. REVERCOMB: He didn't have a blood test yet,  
15 either. Reggettz was indicted in April of 1980. They  
16 didn't do the blood test until later. He had to be  
17 transferred and indicted then.

18 MR. BICKLEY: Well, he was named in the  
19 indictment.

20 MS. LUSK: He wasn't presented. It was not  
21 presented. It was not refused.

22

23 WHEREUPON, the bench conference was concluded.

24



1 (Back on the Record)

2

3 By Mr. Bickley:

4

5 Ladies and gentlemen, I stand corrected. John  
6 Moss was in the indictment, his name was in the  
7 indictment but it was not presented to the Grand Jury.  
8 At that time, he was a juvenile, 17 years old. But his  
9 name was in there. It was believed -- the theory of  
10 conspiracy was alive and well.

11 Now, the defense will put on witnesses, but there  
12 is no witness more important than the witness who is in  
13 this room right now. Besides John Moss, the person with  
14 the presumption of innocent, the witness is silent and  
15 unseen, but it is very important. He stands between the  
16 State and himself. And you must respect the mandate of  
17 the law to give him that presumption.

18 We chose you because we believed you to be the  
19 most sincere, the most intelligent and the most  
20 courageous people we could find to serve. You hold my  
21 client's entire future in your hands -- all of his hopes  
22 and dreams and aspirations, as you assume this grave  
23 responsibility. I ask only that you do what is right.

24 I asked you earlier if you could stand by your

1 conviction when it came time to vote on the guilt or  
2 innocence of my client. You assured me that you would  
3 do that. You even told me that you would stand alone.

4 My client is ready to proceed in this matter,  
5 knowing that his fate rests in your hands, the hands of  
6 men and women of character.

7 Thank you very much.

8  
9 THE COURT: Folks, at this point, ordinarily we  
10 would put on some evidence, but it's going to be  
11 necessary for us to go through some preparations, and so  
12 rather than make you sit around for another ten or  
13 fifteen minutes and then only go for another fifteen or  
14 twenty after that, I'm going to recess for the day.

15 But I would ask you to come back tomorrow morning  
16 at 9:00 o'clock and just assemble in the Jury Lounge.  
17 It is not necessary that you go back to the other room.

18 Again, I would implore you -- do not discuss the  
19 case among yourselves or with other persons. When you  
20 see television cameras here, you can get your relatives  
21 to videotape it, but don't watch it tonight. I see  
22 representatives of the newspapers here as well. I am  
23 confident that there will be some coverage of this case  
24 in the newspapers. Please don't read it.

1           Enjoy the rest of your evening, and we'll see you  
2           tomorrow morning at 9:00 o'clock.

3

4           WHEREUPON, the jury was excused for the day.

5

6           (Back on the Record)

7

8           MR. BICKLEY: Are you aware that the Supreme  
9           Court turned us down?

10          THE COURT: Yeah. That's what I told you.

11          MR. BICKLEY: I'm surprised.

12          THE COURT: Okay. Why don't you all come on in  
13          here at 9:00 o'clock, and we'll get hopping.

14

15          WHEREUPON, the Court stood in a recess in the  
16          hearing of this case.

STATE OF WEST VIRGINIA,  
COUNTY OF KANAWHA, to-wit:

I, Connie L. Cooke, Official Reporter for the Circuit Court of Kanawha County, do hereby certify that the foregoing is a true and correct transcript of the proceedings had and reported in the matter of the State of West Virginia versus John Moss, Jr., aka John Moss, III, upon action number 82-F-221, as stated in the caption hereto, had on the 17th day of April, 1990, during the May 1990 Term of said Court, as reported by me and transcribed into the English language.

I hereby certify that the transcript within meets the requirements of the Code of the State of West Virginia, 51-7-4, and all rules pertaining thereto as promulgated by the Supreme Court of Appeals.

Given under my hand this 13th day of July, 1990.

Connie L. Cooke

Official Reporter

1 N THE CIRCUIT COURT OF KANAWHA COUNTY, WEST VIRGINIA

2

3

4 STATE OF WEST VIRGINIA

5

6 vs.

Action No. 82-F-221

7

8 JOHN MOSS, JR., aka JOHN MOSS, III

9

10

11 BEFORE: Hon. A. Andrew MacQueen, Judge

12

Day 3

13

14

15

APPEARANCES

16

17

18 For the State: Neva Lusk and Stephen Revercomb,  
19 Assistant Prosecuting Attorneys for Kanawha County.

20 For the Defendant: The Defendant, in person, and  
21 by Nelson R. Bickley, Timothy N. Huffman and Kathy  
22 Beckett, his counsel.

23

24

25

Connie L. Cooke

Official Reporter

**FILED**  
JAN 23 1990

ANCIL G. RAMEY, CLERK  
SUPREME COURT OF APPEALS  
OF WEST VIRGINIA

1

## WITNESSES FOR THE PLAINTIFF

2

3

D X RD RX

4

1) Trooper Terry Williams 425 590 612 619

5

2) Scott Leasure 625 630

6

3) John Fulks 631

7

4) Joe Dean Jarrell 635 640

8

5) William D. Estep 643

9

6) Lt. Clarence Ralph Lane 650 654

10

7) Paul Reggett 661 735 762 764

11

8) Trooper Robert R. Custer 767 779 781

12

9) Sgt. R. L. Presson 782 796 798

13

10) Irvin R. Sopher, M.D. 799 864 865

14

11) Paul Fortson 870

15

12) Arbutus Johnson Pomeroy 896 903 905

16

13) Michael D. Smith (In Camera) 907 913

17

14) John Moss (In Camera) 917 919 914

18

15) Michael Don Smith 931 978

19

16) Charles E. Pettry, Jr. 997 1004 1009

20

17) Lt. David H. Shumate 1021 1045

21

18) Fred S. Zain 1048 1053

22

and 1065 1125 1135 1137

23

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## WITNESSES FOR DEFENDANT

D X RD RX

1) Alexander Fortson	1164	1173		
2) Willie James Moss	1179	1187	1191	1192
3) John Moss, Jr.	1193			
4) John C. Wideman	1202	1204		
5) Trooper Howard Woodyard	1208	1222	1233	1234

1 BE IT REMEMBERED, that on Wednesday, the 18th day  
2 of April, 1990, during the May 1990 Term of said Court,  
3 in the matter of the State of West Virginia versus John  
4 Moss, Jr., aka John Moss, III, upon Action No. 82-F-221,  
5 as stated in the caption hereto, the following  
6 transpired:

7

8 (On the Record with the Jury Present)

9

10 THE COURT: Welcome back. At this point the  
11 State will begin the presentation of its evidence.

12

13 (For the Plaintiffs)

14

15 MR. REVERCOMB: At this time, the State would  
16 call Trooper Terry Williams.

17

18 WHEREUPON, Trooper Terry Williams was sworn, upon  
19 his oath, and the following transpired:

20

21 DIRECTION EXAMINATION

22

23 BY MR. REVERCOMB:

24



Williams - Direct

426

1 Q Would you please state your name for  
2 the record, sir?

3 A Terry Williams.

4 Q You'll have to speak up so we can all  
5 hear.

6 A Terry Williams.

7 Q Where are you employed, Trooper  
8 Williams?

9 A The Department of Public Safety.

10 Q That's the State Police?

11 A Yes.

12 Q Where are you stationed?

13 A South Charleston.

14 Q How long have you been a State Trooper?

15 A A little over eighteen years.

16 Q And what do your duties consist of as  
17 a State Trooper?

18 A Well, right now, I give commercial  
19 driver's licenses. It also consists of road patrol,  
20 criminal investigations, accident investigations, just  
21 a little bit of everything.

22 Q How long have you been on commercial  
23 driver's licenses?

24 A Since August of '89.

Williams - Direct

427

1 Q And before that, it was road patrol and  
2 criminal investigations?

3 A Yes.

4 Q Were you so employed in December of  
5 1979?

6 A Yes.

7 Q Did you have occasion on the 13th --  
8 let me call your attention to December 13, 1979. Were  
9 you called to the scene of a murder?

10 A Yes.

11 Q Tell us how you got the call?

12 A I received a call on my radio that  
13 there was a possible Signal 18 at 7027 Chesapeake Avenue,  
14 St. Albans, West Virginia.

15 Q Is that in Kanawha County, West  
16 Virginia?

17 A Yes.

18 Q A Signal 18 -- what is that?

19 A Murder.

20 Q And approximately what time did you get  
21 that call?

22 A 12:15 p.m.

23 Q Right after noon?

24 A Yes.

Williams - Direct

428

1 Q Where were you when you got the call?

2 A I was in Spring Hill.

3 Q How long do you think it took you to  
4 get to the scene?

5 A About five minutes.

6 Q Tell us what you found upon arriving at  
7 the scene?

8 A I traveled west on U.S. 60, and as I  
9 approached the intersection of U.S. 60 and Fourth Street,  
10 there was the subject standing there at the corner,  
11 waving his arms.

12 Q Did you later learn the identity of  
13 that subject?

14 A Yes.

15 Q Who was it?

16 A Paul Reggett.

17 Q Go ahead.

18 A I turned left onto Fourth Street, and  
19 I rolled down the passenger window. He knelt down into  
20 the window and said, "Someone killed my family."

21 And I said, "Where do you live?" and he took off  
22 running down Fourth Street.

23 Q He didn't get into the cruiser?

24 A No.

Williams - Direct

429

1 Q He ran down Fourth Street?

2 A Yes.

3 Q What did you do?

4 A I followed him in my cruiser.

5 Q Where did you follow him to?

6 A He ran up into his yard and I stopped  
7 at the intersection of Chesapeake Avenue and Fourth  
8 Street, and I got out and went up into the yard.

9 Q Where was this yard in relation to that  
10 intersection of Fourth Avenue and Chesapeake?

11 A It's right there at the intersection.

12 Q Go ahead.

13 A He again stated that someone killed his  
14 family. And we walked into the front door of the house.

15 Q What did you find?

16 A Upon entering the front door, I looked  
17 immediately to the right and saw a little girl lying on  
18 a bed in the front bed room.

19 Q Where did you go to then?

20 A From there, I went through the living  
21 room, into the TV room, and as we entered the TV room,  
22 I saw the legs of a woman sticking out into the TV room.

23 Q When you seen the little girl to the  
24 right, did you go over and check her?

Williams - Direct

430

1 A No.

2 Q Go ahead.

3 A In the doorway, between the TV room and  
4 the back bed room was a lying in the floor. She had some  
5 cord wrapped around her neck and a pair of scissors in  
6 her chest. She had what appeared to be blood on her  
7 nightgown and face, and at that point, I also observed  
8 a little boy lying on a bed in the back bed room.

9 Q What was the condition of the people?

10 A They appeared to be deceased.

11 Q What did you do at that point?

12 A At that point, myself and Paul  
13 Reggett, I took him outside. I told him to sit on the  
14 front porch and don't go anywhere. I went across the  
15 street to make a phone call.

16 Q Who did you call?

17 A I called my office, and talked to  
18 Trooper Woodyard. I told him what I had, and that I  
19 needed some assistance down there. I wanted him to  
20 contact the lab people, serology, the photo lab, the  
21 fingerprint lab, and have them come down and assist me  
22 at the scene; and also, to contact the Medical Examiner  
23 and the Prosecuting Attorney's office.

24 Q After you made this phone call, where

Williams - Direct

431

1 did you go?

2 A I went back over to Mr. Reggettz where  
3 I told him to sit. He was still sitting there. And at  
4 that point, I said, "I want you to show me exactly what  
5 you found." And he did.

6 Q How did he show you that?

7 A He said he went up on the front porch  
8 when he came home from work. He stated that he was  
9 supposed to meet his family out on Route 60, but they  
10 weren't there when he got home. They was going to go to  
11 K-Mart and buy a watch that he saw in a K-Mart ad. He  
12 was going to buy it for Christmas.

13 He said he walked up to the front door. He  
14 showed me that he walked up on the front porch and the  
15 door was locked. He knocked on the door and no one  
16 answered. Then he went around back and pushed the back  
17 door open, and he noticed his wife's legs sticking out  
18 into the TV room and he knew something was wrong.

19 He showed me that he walked over to his wife and  
20 found his wife partially tied up to the door between the  
21 TV room and the back bed room, with a cord wrapped around  
22 her neck, and one of the cords was going through the hole  
23 in the door -- a hole where the door knob should be.

24 Q Did he indicate that a door knob had

Williams - Direct

432

1       been taken out of the door?

2                   A           No.

3                   Q           It just hadn't been there for some  
4       time?

5                   A           He didn't indicate one way or the  
6       other. There was no door knob on the door.

7                   He then stated -- or he showed me that he took  
8       her down, loosened the cords from around her neck, and  
9       then he started to look for his little girl.

10                  He stated that -- he showed me how he found his  
11       little girl hanging on the door between the living room  
12       and the front bed room with a cord wrapped around her  
13       neck. She was hanging on the door, and the door was  
14       shut. She was hanging facing the Christmas tree.

15                  He showed me that he took his little girl down  
16       and laid her on the bed in the front bed room. He then  
17       showed me -- he started looking for his little boy and  
18       found him lying in the bath tub, face down, with his  
19       hands tied behind him with a cord wrapped around his  
20       neck, with the cord going down around his wrists behind  
21       his back.

22                  He stated that the bath tub was about half full  
23       of water. He took him out and laid him on the bed in the  
24       back bed room, and the took the cords off his right wrist

Williams - Direct

433

1 and around his neck.

2 And at that point, we went back outside. I took  
3 him back outside.

4 Q Why did you go back outside, Trooper  
5 Williams?

6 A Well, I didn't want to disturb anything  
7 further at the crime scene. I just wanted to observe  
8 everything at the crime scene so the lab people could get  
9 down there and do their jobs.

10 Q How would you describe his demeanor at  
11 this point?

12 A Well, he seemed a little nervous to me,  
13 but he had a -- sort of a blank look on his face. I  
14 can't explain it. He just had sort of a blank look.

15 Q Did he show any emotion?

16 A No.

17 Q Did he at any time indicate that  
18 afternoon that he had killed his family?

19 A No.

20 Q Once you got outside, did other Police  
21 Officers start arriving?

22 A Yes.

23 Q Do you remember who they were?

24 A The first two that arrived was Dave



Williams - Direct

434

1 Williams and Trooper Woodyard.

2 Q And what was done with Mr. Reggettz at  
3 that point?

4 A I placed him in the back seat of my  
5 cruiser.

6 Q For what purpose?

7 A I just wanted to get him away from the  
8 scene itself.

9 Q Where was he taken -- do you know?

10 A Later, he was taken to our office in  
11 South Charleston at the detachment.

12 Q You stated that Trooper Williams and  
13 Sergeant Woodyard were there. Did any one else arrive?

14 A Yes. Corporal Shumate from the  
15 fingerprint lab arrived and Sergeant Fulks from the photo  
16 lab, Zain from serology, Chuck Pettry from the  
17 Prosecutor's office, and the Medical Examiner arrived.

18 Q And Dr. Sopher?

19 A Yes.

20 Q And when you asked Paul Reggettz to  
21 show you exactly what he found, when you came back across  
22 the street from making the phone call, which door did he  
23 go in?

24 A We went in the back door.

Williams - Direct

435

1 Q That's how he told you he found them?

2 A Yes.

3 MR. REVERCOMB: Your Honor, I'd ask that the  
4 witness be allowed to step down ---

5 THE COURT: That's fine.

6 MR. REVERCOMB: -- and that the lights be dimmed.

7 THE COURT: Sure.

8 MR. REVERCOMB: (To the Jurors) Can you all see  
9 the screen?

10 JURORS: Yes.

11 BY MR. REVERCOMB:

12 Q Trooper Williams, if you will, describe  
13 the outside of the house as you found it that day.

14 A Well, when I came down Fourth Street to  
15 the intersection of Chesapeake Avenue, there was a white  
16 frame house that had red trim, and a thick, grassy area  
17 in the front, and a driveway. There was a house on both  
18 sides of this residence. There was also a driveway, a  
19 rock driveway.

20 Q I'm going to now show you a slide that  
21 corresponds with a photograph that's been marked State's  
22 Exhibit No. 1, and ask you to examine this.

23 A This is a photograph of the outside of  
24 the Reggett home.

Williams - Direct

436

1 Q From what direction?

2 A This was taken from the direction of  
3 Chesapeake Avenue.

4 Q Is that the front or rear of the house?

5 A That's the front, the front left side.

6 Q Does that slide accurately depict what  
7 it looked like at that time?

8 A Yes.

9 Q Now, I'll show you a slide which  
10 corresponds with State's Exhibit No. 3.

11 A This is a rear portion of the Reggettz  
12 home with the railroad tracks behind a wooden house.

13 Q Does that slide accurately depict what  
14 the scene looked like on December 13th?

15 A Yes.

16 Q Do you know who took the photographs?

17 A Yes.

18 Q Who?

19 A Sergeant Fulks of the photo lab.

20 Q I'll now show you a slide that  
21 corresponds to a photograph marked State's Exhibit 4.

22 A This is a closeup photo of the rear of  
23 the Reggettz home. The back door and the porch. You can  
24 see one of the houses next door.

Williams - Direct

437

1 Q Trooper, do you have a pointer there?

2 A Yes.

3 Q You might want to use your pointer.

4 I'll now show you a slide that corresponds with what's  
5 been marked State's Exhibit 5.

6 A This is a closeup view of the rear door  
7 of the Reggett home. It shows the handle here. Right  
8 here is what appears to be blood on the door, on the  
9 outside of the door.

10 Q I know it's hard to see, but does the  
11 photograph show it better?

12 A Yes, the photograph shows it better.

13 Q Is there any other blood in this slide?

14 A There is some blood right here  
15 (Indicating), above the handle.

16 Q Does that accurately depict what that  
17 door looked like on December 13, 1979?

18 A Yes.

19 Q And now, I'll show you a slide which  
20 has been marked State Exhibit 12.

21 A This is a photo taken outside of the  
22 Reggett home, showing the front yard area. This is that  
23 grassy area here. This is Fourth Street that runs down  
24 Route 60, and this road that runs this way is Chesapeake

Williams - Direct

438

1 Avenue.

2 Q Does that slide accurately depict what  
3 the scene looked like on that date?

4 A Yes.

5 Q And those are State Police cruisers?

6 A Yes.

7 Q Describe the condition of the yard  
8 there.

9 A Well, this is a thick, grassy area here  
10 (Indicating). It was wet because it had been raining on  
11 and off, but there was no mud in this area here at all.

12 Q Was there mud found on any of the  
13 grassy areas around?

14 A No.

15 Q Now, I'll show you a slide which has  
16 been marked State's Exhibit No. 5.

17 A This is another photo of the rear of  
18 the Reggett home. It shows the backyard area. It's  
19 also a thick, grassy area, a house next door, and this  
20 is a driveway between the houses.

21 Q Does that accurately depict what you  
22 found at the scene?

23 A Yes.

24 Q Does this slide -- what corresponds

Williams - Direct

439

1 with State's Exhibit 86?

2 A This is another photo of the front  
3 portion of the Reggett home, showing the front porch and  
4 the grassy area and the driveway, which has rock and  
5 brick, and it does have some mud in it.

6 Q Then, you did see some mud in the  
7 driveway area?

8 A Yes.

9 Q I'll show you now a slide that  
10 corresponds with what's been marked as State's Exhibit  
11 87.

12 A This shows another house next door on  
13 the other side of the Reggett home. This house here is  
14 abandoned. No one lives in it. It shows the grassy area  
15 and this is the Reggett house right here (Indicating).

16 Q Is it your testimony that no one was  
17 living in that house at the time?

18 A That's correct.

19 Q Now, I'll show you a slide that  
20 corresponds with what's been marked -- a photograph  
21 that's been marked as State's Exhibit 88.

22 A This is another photo of the Reggett  
23 home. It shows an overall view of the front yard, the  
24 front porch of the Reggett home.

Williams - Direct

440

1 Q Does this slide accurately depict what  
2 the place looked like on December 13, 1979?

3 A Yes.

4 Q Now, I'll show you a slide that  
5 corresponds with what's been marked as State's Exhibit  
6 89.

7 A This is the rear yard of the Reggett  
8 home, showing a junked car here at the railroad tracks  
9 at the back of the house.

10 Q When was this photograph taken?

11 A December 13, 1979.

12 Q The condition of the railroad and the  
13 bank leading up to the railroad tracks, is there mud  
14 there?

15 A No, this area along the railroad tracks  
16 is rocky and cinders.

17 Q Now, tell us what you found in the  
18 kitchen, Trooper Williams.

19 A I went through the rear door, and lying  
20 on the floor as you enter the kitchen, was a sheet that  
21 had some spoons on it.

22 The curtain on the rear door was partially torn  
23 down. There was what appeared to be blood on the  
24 curtain.

Williams - Direct

441

1           Also, on the sink, there was what appeared to be  
2           blood on the sink. And on the outside of the utensil  
3           drawer was what appeared to be blood on it.

4           Q           I'll now show you a slide that  
5           corresponds with what has been marked as State's Exhibit  
6           50 -- a photograph that has been marked as State's  
7           Exhibit 50.

8           A           This is a photo of part of the kitchen,  
9           which shows the sink. This is the utensil drawer over  
10          here. And there was blood -- well, what appears to be  
11          blood right here, on the utensil drawer and right here  
12          on the sink. Those show up better in the photo.

13          Q           Can you describe some of the objects  
14          you see?

15          A           Dishes in the sink, dishes setting on  
16          the stove, you've got a pan here and a coffee pot, a  
17          percolator, right here.

18          Q           Does that slide accurately depict what  
19          you found at the scene?

20          A           Yes.

21          Q           Now, I'll show you a slide that  
22          corresponds with State's Exhibit 47.

23          A           Okay. This is another photo of the  
24          kitchen area. This is what we saw when we walked into



Williams - Direct

442

1 the back door. This is the sheet, and there are the  
2 spoons on the sheet. The refrigerator and the hot water  
3 tank.

4 Q Is this an opposite view of the  
5 previous exhibit?

6 A Yes.

7 Q Now, I'll show you what has been marked  
8 as State's Exhibit 57, or a slide that corresponds with  
9 what's been marked as State's Exhibit 57.

10 A This photo was taken from the TV room  
11 into the kitchen. This is the back door here. This is  
12 the curtain that I was speaking of, it's partially torn  
13 down. Right here is what appears to be blood on the  
14 curtain. And here is the sheet with the spoons on it.  
15 And the trash can right there.

16 Q Does that accurately depict what you  
17 found at the scene that day?

18 A Yes.

19 Q Now, I'll show you a slide that's been  
20 marked State's Exhibit 63.

21 A This is a closeup of the curtain on the  
22 back door. You can see the curtain partially torn down  
23 here. Right here, you can see what appears to be blood  
24 here on the curtain.

Williams - Direct

443

1           You can see part of the door latch, the bolt,  
2           right here.

3           Q           Is there any other blood or what  
4           appears to be blood on there?

5           A           There is what appears to be blood here  
6           and here and here.

7           Q           And does this slide accurately depict  
8           what that curtain looked like on December 13, 1979?

9           A           Yes.

10          Q           That lock you described, did you test  
11          that lock or have that lock analyzed in any way?

12          A           We have a photograph, but we didn't  
13          test it.

14          Q           This is the photograph?

15          A           Yes. I believe there is another one,  
16          too.

17          Q           Is there a photograph of the door  
18          facing itself?

19          A           Yes. The door facing up here at the  
20          lock is partially torn.

21          Q           My question is, did you view the  
22          photographs on the actual inside of the actual inside of  
23          the door facing?

24          A           Yes. There are photographs of the door

Williams - Direct

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1 facing.

2 Q Is that the only lock on the door, the  
3 one you described?

4 A Yes.

5 Q What is the condition of the slide bar  
6 there appear to be?

7 A It's engaged in the lock position.

8 Q Even if that door is not shut?

9 A No.

10 Q Now, I'll show you what has been marked  
11 for identification purposes as State's Exhibit 46.

12 A This is a closeup view of the scene in  
13 the kitchen. We've got what appears to be blood here and  
14 here, and you can see the dishes inside the sink.

15 Q Does that accurately depict what it  
16 looked like on that date?

17 A Yes.

18 Q Now, I'll show you a slide that  
19 corresponds with State's Exhibit 51.

20 A This is another closeup view. This is  
21 the sink, this is the utensil drawer right here. You've  
22 got what appears to be blood on the outside of the  
23 utensil drawer, and on a can of food down under the  
24 cabinet.

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1 Q Does this slide accurately depict the  
2 scene of the crime?

3 A Yes.

4 Q Now, I'll show you a slide that  
5 corresponds to a photograph that has been marked as  
6 State's Exhibit 48.

7 A This is a closeup view of the trash can  
8 in the kitchen. It shows a fish box, a cereal box. This  
9 right here is coffee grounds.

10 Q Now, Trooper Williams, would you tell  
11 us what you found in the TV room?

12 A Upon entering the TV room, I saw the  
13 legs of a white female sticking out into the TV room.  
14 There was also a knife handle on the floor of the TV  
15 room. There was a chair with a green lantern in it. A  
16 couch, a TV, a bar with two stools.

17 Q Could you show us on this diagram where  
18 the TV room is located?

19 A This is the TV room right here,  
20 (Indicating) this area right here.

21 Q That's between the kitchen and the  
22 living room?

23 A Yes.

24 Q Right next to the back bedroom?

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1 A Yes.

2 Q Where is the back door in the kitchen?

3 A This is the back door right here. This  
4 is the kitchen. You come in the back door, you would be  
5 in the kitchen as soon as you enter the back door.

6 THE COURT: Can you all see the diagram?

7 THE JURORS: Yes.

8 BY MR. REVERCOMB:

9 Q Now, I'll show you a slide that  
10 corresponds with a photo marked State's Exhibit 65.

11 A This is a photo taken from the kitchen  
12 into the TV room. You can see the knife handle right  
13 here. The woman's legs right here. Her body was into  
14 the back bed room.

15 Q This is a view you see upon entering  
16 the back door?

17 A Yes.

18 Q That's what you found upon entering the  
19 back door?

20 A Yes.

21 Q I'll now show you a slide that  
22 corresponds with what has been marked as State's Exhibit  
23 21.

24 A That is a photo of the TV room. You

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1 see the TV here, the couch here, a newspaper laying right  
2 here on the couch.

3 Q Where is the doorway next to the TV  
4 room?

5 A There is a doorway that goes into the  
6 living room.

7 Q So, the TV is in front of the wall  
8 separating the TV room and the living room?

9 A Yes.

10 Q Now, I'll show you what has been marked  
11 -- a slide corresponding with what has been marked  
12 State's Exhibit 49.

13 A This is a different view of the TV  
14 room. This, back here, is the kitchen. This doorway  
15 goes to the kitchen. You've got a chair with a green  
16 lantern sitting in the chair. You've got two coffee cups  
17 sitting here on the table and an ash tray.

18 Q Does that accurately depict what you  
19 found at the scene?

20 A Yes.

21 Q Now, I'll show you a slide that  
22 corresponds with what has been marked as State's Exhibit  
23 58.

24 A This is another view of the TV room.

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1 It shows the couch here. This is a K-Mart ad laying on  
2 the couch.

3 Q I'll now show you a slide which  
4 corresponds to a photograph marked as State's Exhibit 84.

5 A This is a different view of the TV  
6 room. It shows the couch with the K-Mart ad, a piece of  
7 a newspaper right here in the floor.

8 Q I'll now show you a slide that  
9 corresponds with State's Exhibit 81 in the photograph.

10 A This is the bar I was speaking of with  
11 two stools. You can see the chair with the green lantern  
12 in the chair.

13 Q Does that accurately depict what the  
14 bar looked like at the time you found it?

15 A Yes.

16 Q Now, I'll show you what's been marked  
17 as a slide corresponding with what's been marked as  
18 State's Exhibit 38.

19 A This is a photo taken from the TV room.  
20 This goes into the back bed room. You can see the female  
21 lying here in the floor, and you can see the cords going  
22 up to the door.

23 Also, there was a piece of cord lying right here  
24 at her foot.

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1 Q Did you learn the identity of this  
2 female?

3 A Yes.

4 Q What was her name?

5 A Vanessa Reggettz.

6 Q Now, if you will, tell us what you  
7 found in the back bed room.

8 A Upon entering the back bed room, I  
9 found Vanessa Reggettz lying in the floor. She had two  
10 cords going around her neck, one of the cords going up  
11 through the hole where the door knob should be.

12 There was what appeared to be a lot of blood on  
13 her gown, and about her face.

14 Also, there was a young, white male lying on the  
15 bed in the back bed room.

16 Q Did you learn his name?

17 A Yes.

18 Q Who was that?

19 A Paul Eric Reggettz.

20 Q Did you learn how old he was?

21 A Yes.

22 Q How old was he?

23 A 7.

24 Q What else did you find in the back bed



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1 room?

2 A Vanessa -- besides the cord going  
3 around her neck, she also had a pair of scissors stuck  
4 in her chest.

5 Paul Eric -- his pajamas were wet. His hair was  
6 wet. And the bed was wet around him. He also had a  
7 white cord lying down beside his right lower leg.

8 There was a large amount of what appeared to be  
9 blood on the floor, with pieces of a broken knife in the  
10 blood. There was pieces of a gun butt lying on the  
11 floor.

12 Q Pieces of a broken gun butt?

13 A Yes, part of the grip of a gun.

14 Q What was the overall condition of the  
15 room?

16 A It was a mess.

17 Q And this white cord that you testified  
18 as being lying on the bed beside Paul Eric's leg -- were  
19 you able to determine where that cord came from?

20 A Yes.

21 Q Where was that?

22 A It came from a clock radio that was on  
23 the floor at the foot of the bed.

24 Q Was it still attached to the clock